IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

JULIE CHRISTOFFERSON TITCHBOURNE, Plaintiff,	)	
vs.	)	No. A7704-05184
CHURCH OF SCIENTOLOGY, MISSION OF DAVIS, a non-profit California corporation, doing business in Oregon; CHURCH OF SCIENTOLOGY OF CALIFORNIA, a California corporation, doing business in Oregon; and L. RON HUBBARD, Defendants.	)	

EXCERPT OF PROCEEDINGS

Volume VI
Pages 3516 to 3571, 3868 to 3893 and 3903 to 4058
Testimony of Gerald D. Armstrong

April 1, 2 and 3, 1985

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1001 S.W. Fifth Ave.
Portland, Oregon

(Court reconvened on April 1, 1985,
at the hour of 9:54 a.m. in
chambers.)

MR. McMURRY: Your Honor, we would ask, pursuant to the Court's direction, that we be allowed to put on a relatively short witness. His business commitments make it impossible for him to be here at any other time. His name is Mr. Howard Homer Schomer. My estimate is that I won't take -- I should be finished with the direct this morning. I doubt if there will be cross beyond this afternoon.

MR. COOLEY: Direct of what?

MR. McMURRY: Direct examination.

MR. COOLEY: Of Schomer?

MR. McMURRY: Yes. So I would like to be able to put him on.

THE COURT: I have got no big problem with it.

MR. McMURRY: Very good.

MR. COOLEY: I hate to interrupt the -- you have two directs before the jury at the same time, and then a cross Schomer before I cross Armstrong. I have no Homer Schomer files here. I'm not ready to cross-examine.

THE COURT: Why can't we just do one thing easy one time?

MR. COOLEY: If I had any idea he was going to come in the courtroom this morning, I would have spent a little time over the weekend getting ready for him and bring his files. I simply do not have them.

THE COURT: Now what?

MR. McMURRY: Well, in accordance with ORCP --

THE COURT: I know I have the discretion to do it.

MR. McMURRY: We advised, Mr. Wade indicated some -- I want to say week ago that Mr. Schomer would be a witness in this case, identified him as one of the witnesses. We have had a lot of difficulties scheduling people and giving them enough advance notice so they can arrange their business a affairs across the country. We have people coming from all over the United States, as the Court knows.

THE COURT: Yes, I do know that.

MR. McMURRY: And we think in the interest of justice, this gentleman just cannot spend -- what Mr. Cooley has been overheard to say is thirteen days of cross-examination on Mr. Armstrong.

THE COURT: I know it's going to be two or three.

MR. COOLEY: All I say, I have been told on Friday I would be in a position to make the accommodatoins. I'm not trying to be an obstructionist. I would be prepared to suggest if if I were to go with Mr. Armstrong this morning, and go until Mr. McMurry decides that -- the remainder of the time would be necessary for his direct of Mr. Schomer, that I could then put Mr. Schomer on when we close down for the day and then I would cross-examine him tomorrow and I could take tonight to get ready for him. I would be willing to go that far.

THE COURT: That's not such a bad resolution. That only keeps him a half day extra.

MR. McMURRY: Then I would put him on at 1:30. Very well.

MR. COOLEY: How long do you think you will be with him?

MR. McMURRY: I don't think more than a morning or afternoon.

MR. COOLEY: Then I will cross him in the a.m., and then we will resume with Armstrong when I finish with him.

MR. RUNSTEIN: I'm going to have trouble scheduling one of my witnesses and I asked Mr. McMurry -- I think he's looking at a probability of completing his case, depending upon cross-examination, of course, by a week from Friday. So I may end up having a problem early the next week because I'm going to have a witness I'm bringing in from out of state, a professional who has limited time problems. I would advice you now, we will look and see how it's looking, so I may have a problem. Since we have accomodated, maybe we can work on that.

MR. COOLEY: If I may, it's a matter I wanted to put on the record is that sometime over the weekend, sometime late Friday or early -- sometime Saturday, my credit card case was stolen from my hotel room. All my credit cards including my driver's license was in there. I just want to make a record of it so that if anything turns up anywhere that impacts this case in any way, --

THE COURT: Absolutely.

MR. COOLEY: That the Court will know this has happened.

THE COURT: Did you report it?

MR. COOLEY: The hotel knows about it. I haven't made a report of it to the police yet because I was -- I -- we moved out of the hotel and I hadn't fully unpacked to satisfy myself, until this morning, that it wasn't in the stuff we packed.

THE COURT: Well, if you need any help with police or anything like that, I will be happy to call them and advise them so you can talk to them about it.

MR. COOLEY: I'm going to go through --

THE COURT: You are sure you had it?

MR. COOLEY: I know I had it on my bureau Friday night. Because my partner gave me my new law firm, a Texaco charge, and I put it in there Friday night and Sunday morning it was gone.

MR. McMURRY: Your Honor, I would also like the Court, in its cautionary instructions to the jury, to remind them that when you go through the litany of things like newspaper and radio and media, also to caution them about reading advertisements. There's been an ongoing PR advertising campaign by the defendant Church of Scientology from a week before and now it appears it's going to be a daily event in the Oregonian extolling the virtue of the defendants in various and sundry ways. If you can make reference to advertising, as well.

THE COURT: Okay.

MR. McMURRY: Thank you.

(Following proceeding held in open court.)

THE COURT: Bring in the jury, please.

(Following proceeding held in the presence of the jury.)

THE COURT: Good morning.

Mr. Armstrong.

(Witness resumed the witness stand.)

You are still under oath, sir.

THE WITNESS: Yes, Your Honor.

THE COURT: Mr. Cooley.

MR. COOLEY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. COOLEY:

Q. You entered Scientology in 1969, as I understand your testimony; is that correct?

A. Yes.

Q. And did you that up in Canada?

A. Yes.

Q. What was the name of that mission?

A. Scientology Little Mountain.

Q. You took the auditing course as your first course?

A. No.

Q. Did you do --

A. I took the communications course.

Q. I mean the communications course. And did it help you?

A. That's a very difficult question to answer. I would have to say now that it did not.

Q. What did you say then?

A. I said then that it did.

Q. And did you start auditing up there, too?

A. Yes.

Q. How soon after you joined did you start auditing?

A. Probably five months.

Q. What was your second course?

A. It was the Dianetics course.

Q. And when did you complete that?

A. I did not complete it.

Q. Did you ever complete it?

A. Yes.

Q. When?

A. In 1977 -- '76.

Q. Where? Clearwater?

A. Yes.

Q. What was the second course you completed?

A. The HQS course.

Q. What does that mean?

A. Hubbard Qualified Scientologist course.

Q. Did that course help you?

A. No.

Q. What did you think then?

A. I had some doubts. I continued.

Q. How much auditing did you take up in Canada?

A. I believe forty hours.

Q. Did you ever become an auditor, yourself?

A. Yes.

Q. What class?

A. I audited everything up to grade four -- Class 4.

Q. Did you ever become an OT?

A. Yes.

Q. OT what?

A. Three.

Q. You held a lot of positions that you described for us, the last being researcher, gathering up materials for the LRH biography; is that right?

A. Yes.

Q. You also gathered up memorabilia for the museum; did you not?

A. Yes.

Q. And did you ever see the completed museum as it was put together and opened down in Los Angeles?

A. No.

Q. Have you ever seen it?

A. No.

Q. You paid $65,000 for a collection of LRH's writings; did you not?

A. I made arrangements for the organization.

Q. Yes.

A. Yes.

Q. Did you negotiate for that purchase?

A. Yes.

Q. What did it consist of?

A. It consisted of early Dianetics and Scientology publications and writings, particularly magazines prior to Dianetics.

Q. Those were the magazines in which Mr. Hubbard published his -- much of his science fiction writing; correct?

A. Yes.

Q. In fact, in some magazines he published stories under two names so he could have two stories in the same issue; correct?

A. Yes.

Q. And all of those were intended to be in the museum?

A. Yes.

Q. How many of those were there? How many publications of science fiction stories would you say you collected?

A. Possibly forty, fifty.

Q. Did you do a time track of Mr. Hubbard's writings from 1931 right up until the time you were working as researcher?

A. Yes.

Q. How much did he publish in 1931?

A. I believe the only thing I had from 1931 was a play and short story from the George Washington University school magazine.

Q. What about 1932?

A. 1932 there was, likewise, a couple of things published.

Q. How many?

A. Maybe two.

Q. You became an expert on LRH's educational qualifications or lack thereof, as I understand it.

A. I know what his education was.

Q. And you became quite knowledgeable of what he did at George Washington University?

A. To some degree, yes.

Q. When did he enter George Washington University?

A. 1930.

Q. So he was there, he entered for the fall semester 1930-31; correct?

A. Yes.

Q. Where had he done his prepatory work for college?

A. At Woodward Boys' School.

Q. Now, where did you get the transcript of his grades that went in here in evidence? A transcript which was in his office, is it the same one that exists in Mr. Hubbard's archives? It was among the papers that you found at Gilman Hot Springs?

A. That's correct.

Q. And that very paper that went into evidence is among the papers you found at Gilman Hot Springs, that being a copy?

A. I can't tell you that's where it came from, because there are a number of such copies around. However, the same document with the same grades was in Mr. Hubbard's archives.

Q. In the same format?

A. Yes.

Q. Mr. Hubbard went to George Washington University the fall semester 1930-31, and it was a two-semester college, wasn't it?

A. Yes.

Q. And he went to the second semester 1931?

A. First year?

Q. Yes.

A. Yes.

Q. And then he attended a summer session, didn't he?

A. No, he did not.

Q. He did not? Are you sure of that?

A. I have a record showing that he was on a survey that summer.

Q. Then he started the first semester of the second year; did he not?

A. Yes.

Q. Did he finish it?

A. Yes.

Q. You are sure of that?

A. Yes.

Q. And at some point he left George Washington?

A. Yes.

Q. Under what circumstances?

A. He left.

Q. Did he flunk out?

A. He appears to have flunked out of some courses.

Q. Did he flunk out of the university?

A. I don't know that. He never returned after the second year.

Q. Did he complete the second year?

A. It appears as if he completed at least some of the courses.

Q. Was he expelled, dismissed?

A. I don't know that. It appears from the transcript that he did not successfully pass.

Q. Do you know anything more about his work at George Washington University and the circumstances under which he left George Washington University than appears in that transcript?

A. I know that he left in the spring, early summer of 1932 in order to do what he later called the Caribbean Motion Picture Expedition. He did not return after that time.

Q. Do you know anything else, beyond what appears on the face of that transcript?

A. Only what he has said in letters about not completing.

Q. All right. Let's go back now, sir, to your background in Scientology; pick it up where we left off. You joined staff up there in Canada at some point?

A. Yes.

Q. And when was that?

A. Sometime in 1970.

Q. Were you an auditor on staff up there at all?

A. No.

Q. What was your job?

A. I gave the communications course; I gave introductory lectures; I wrote letters; I sold books; I sold courses; I invoiced money; I did the banking; I typed issues and mimeographed issues.

Q. How many staff members were there in that mission?

A. It varied from two to four.

Q. You must have done pretty well in the communications course to be able to teach it; is that right?

A. I learned it quite well, yes.

Q. How long did it take you to succeed in the TRs?

A. Initially it was a two-week course.

Q. Did you complete it in two weeks?

A. Yes.

Q. Was that in 1969?

A. Yes.

Q. What month did you go in there?

A. My recollection is this was September of 1969 when I first began taking courses.

Q. When did you sign on as a Scientologist?

A. I don't know that one signs on as a Scientologist.

Q. When you went in did you sign a form saying why you were going there?

A. No.

Q. Did you fill out any form at all when you went into the Scientology mission up there?

A. I took what's called the Personality Test.

Q. Were you put on a meter at all?

A. Yes.

Q. And asked some questions?

A. Yes.

Q. How many?

A. I had forty hours of auditing.

Q. I'm not talking about auditing. I'm talking about when you go in -- first go in the door. Didn't you fill out -- wasn't a form made out on you to determine your purposes for coming in?

A. No.

Q. Was that procedure adopted sometime later?

A. It possibly has been.

Q. You don't know?

A. I don't know.

Q. When do you say you became a Scientologist, if ever?

A. I think that it's a cumulative effect, but I think that very shortly after the entry into the door of Scientology in Vancouver, I would have been classified as a Scientologist.

Q. When did you classify yourself as a Scientologist?

A. Around that time.

Q. Now, at some point you left the mission in Canada and went to the LA org or went to the Los Angeles -- not the LA org but to the -- you went to Los Angeles?

A. Yes.

Q. To join the Sea Organization?

A. Yes.

Q. How did that come about that you signed on for that position?

A. I had been communicated to by Sea Org personnel on recruiting missions up to Vancouver and that's how I learned about the Sea Organization and that was my initial contact and that's how I got in ultimately.

Q. Who recruited you?

A. The most significant recruitment mission was Laurel Watson, did a recruitment mission at the end of 19 -- sometime in 1970.

Q. She became married and became known as Laurel Sullivan, didn't she?

A. Yes.

Q. Your earliest contact with Laurel Sullivan was when she recruited you for the Sea Organization?

A. Yes.

Q. And she also was the last person that you worked for in Scientology?

A. No.

Q. Wasn't she your superior as the researcher?

A. She was busted in the summer of 1981.

Q. Who did you work for after that?

A. Sue Anderson.

Q. Right up until the time that Laurel Sullivan -- You say she was busted. Did she go to the RPF or was she -- or was she declared?

A. It was neither.

Q. Demoted? What happened?

A. She was brought to Gilman Hot Springs from Los Angeles and assigned to the weed-pulling detail.

Q. All right. That's not RPF?

A. It's a similar thing. It was not a formalized RPF.

Q. That happened in what month in 1981?

A. July.

Q. Was that at about the same time the raids were being conducted on the Guardian's Office? By that I mean the raids by the CMO and the Watchdog Committee.

A. You have used the term "raids" and I not familiar with raids being done but --

Q. Let me rephrase it. Was the Guardian's Office cleaned out, starting in July 1981, by certain personnel?

A. There were personnel removed from there positions in the Guardian's Office.

Q. And who -- under whose auspices did that take place?

A. L. Ron Hubbard.

Q. Who executed it?

A. CMO personnel, and those also included in the missions --

Q. Do you know the people who were involved that did it?

A. I know a number of them.

Q. Would you name them.

A. Steve Marlow.

Q. Is he CMO?

A. Yes. Viciki Asmeran.

Q. Was she CMO?

A. I don't believe she was at the time.

Q. What was her position?

A. Part of the mission, CMO mission, which was sent in. Gary Reisdorf.

Q. Was he CMO?

A. Same thing, he was not CMO, but he was recruited to perform that function.

Q. By the CMO?

A. Yes. Mark Yeager, David Miscavage.

Q. David was a CMO, wasn't he?

A. Yes.

Q. Do you know what position he holds in the Church today?

A. No.

Q. You mentioned David Miscavage?

A. Yes.

Q. He was CMO, wasn't he?

A. Yes.

Q. Do you know what position he occupies in the Church today?

A. He runs it underneath L. Ron Hubbard.

Q. Who else?

A. Those are the names that come to mind of those I actually knew were involved.

Q. And as part of that operation, shortly after the move was made on the Guardian's Office, Mary Sue Hubbard was likewise removed as Controller, was she not?

A. That's correct.

Q. And the Guardian's Office was then placed under the supervision of Mr. Franks who had been promoted to Executive Director, International; correct?

A. Correct.

Q. To whom was he responsible, if you know?

A. L. Ron Hubbard.

Q. Did he have direct lines of communication to L. Ron Hubbard?

A. It would have been via CMO, via David Miscavage via the Brokers.

Q. You are of the view, are you not, sir, and have so testified that in 1980, 1981, right up to the time you left the Church, anything that bore the initials or purported signature of L. Ron Hubbard was not written by him; is that not your view?

A. I don't think that's correct, but I also don't quite understand your question.

Q. Did you see documents bearing typewritten indications that were from L. Ron Hubbard in 1980, '81?

A. Yes.

Q. Are you of the view that those were actually written by L. Ron Hubbard?

A. They probably were not typed by L. Ron Hubbard. Some of them at least came from L. Ron Hubbard.

Q. You got down to Los Angeles, having been reviewed by Laurel Sullivan, you saw a lot of Laurel Sullivan over the years, didn't you, that you were in Scientology?

A. The next time I saw Laurel Sullivan was sometime in the early '70s. I saw her off and on until probably 1979.

Q. You spent a lot of time in the RPF with her, didn't you?

A. I would say I spent probably eight months with her on the RPF.

Q. Then she got out of the RPF before you did in 1979; correct?

A. No.

Q. Or did you get out before her?

A. Correct.

Q. When did you get out?

A. My recollection is either March or April 1979.

Q. When did she get out?

A. Sometime after that.

Q. Do you know when?

A. Maybe a month later.

Q. Where did she go when she got out?

A. She continued in the LRH Renovations Unit.

Q. Where did you go?

A. I was also in the LRH Renovations Unit.

Q. You were together again at Gilman Hot Springs?

A. We had been in the RPF at Gilman Hot Springs.

Q. And when you got out, you went into the renovation unit?

A. Yes.

Q. And then she got out and she went in the renovation unit?

A. Yes.

Q. How long were you in the renovation unit together?

A. Until probably the summer of 1979.

Q. The renovation unit was basically the unit that was fixing up the house that L. Ron Hubbard was going to live in?

A. That's correct -- house, offices, grounds.

Q. But he wound up not living in it?

A. As far as I know.

Q. And did she leave the renovation unit before you did?

A. Yes.

Q. And she was posted to become LRH's -- the head of the personal PR office; right?

A. Yes.

Q. She was the head of it; right?

A. Yes.

Q. To whom did she report, do you know?

A. L. Ron Hubbard.

Q. Wasn't there a -- somebody between her and L. Ron Hubbard, some other official?

A. There may have been organizationally per the organization board, but those people would not be involved in communication. They would be copied, but communications from Hubbard would go directly to Laurel, communications from Laurel would go directly to Hubbard via, of course, whatever messenger was handling his traffic for the day.

Q. And after she got settled into that position, and you -- you were brought on to work for her in a new post that was created pursuant to your petition; is that right?

A. Yes.

Q. Backing up to 1970 when you came down to Los Angeles to join the Sea Org, after Laurel recruited you, you spent a few weeks training on the Bolivar which was in the harbor down there; right?

A. About a week.

Q. About a week? And then you were flown to the Apollo which was where at that time, in Tunisia?

A. Morocco.

Q. Did you know when you came down from Canada that you were going to wind up in Tangier, Morocco on the ship Apollo via LA?

A. No.

Q. How did it come about you got posted to the Apollo?

A. While I was on the Bolivar, there was a Flag recruitment mission which arrived. The missionaire was a woman by the name of Riva Spence, and she just picked out a number of us from the crew and we were ordered to pack up and be briefed, and within twenty-four hours we were on our way to Madrid, Spain.

Q. Was Laurel Sullivan on the ship Apollo?

A. At that time?

Q. Yes.

A. I don't believe so.

Q. Did she ultimately get on that ship while you were there?

A. Yes.

Q. When?

A. I think the next time I saw her would have been 1972.

Q. How long did she stay on the ship, commencing in 1972?

A. She came and went. I did not have a great deal of contact throughout that period.

Q. You were on the ship for -- when did you join in 1970?

A. Beginning of '71.

Q. You were on all of '71?

A. Yes.

Q. All of '72?

A. Yes.

Q. '73?

A. Yes.

Q. '74?

A. Yes. Except for missions.

Q. Yes, sir. Missions were when you went ahead to pick out ports of call?

A. Or other things, yes.

Q. And in 1975, you were on it until the Flag became land based in Clearwater; correct?

A. I left briefly before the rest of the body of the crew left.

Q. Now, you say you worked for the -- you were reporting to the Port Captain when you held a position on that ship. What position was it that you held that caused you to report to the Port Captain?

A. As the ship's representative, as the director of shore relations, as the intelligence officer.

Q. Now, what intelligence function did the Port Captain have?

A. The Port Captain's office performed basically the same functions at Intelligence Bureau of the Guardian's

Office.

Q. Have you ever seen the Hat writeup on the Port Captain?

A. Yes.

Q. How long did you hold that job?

A. Which job?

Q. The one that had you in this intelligence position.

A. Approximately a year.

Q. And what year was that?

A. The year of 1974 through the time I left the ship in September of 1975.

Q. When you got to Clearwater, when was that, November of 1975?

A. I'm not sure what you mean.

Q. You, personally.

A. I was in Dunedin.

Q. After you left the Ship Appollo, what was your next post?

A. I was in the Guardian's Office at Daytona Beach.

Q. Was that an intelligence position you occupied there?

A. Yes.

Q. What was its title?

A. It was never formally titled; however, it was Intelligence Officer.

Q. Who posted you to that position?

A. I believe Bill Fosdick, the AG Flag.

Q. It was a formal posting?

A. It had never been formalized. I did not stay there long enough.

Q. You were only there how long?

A. Approximately -- Maybe three weeks, maybe a month.

Q. What you did you do?

A. I was mainly involved in the coding decoding of telexes and in the security shredding and burning of security materials.

Q. But there's no record of you ever having been posted to that position; right?

A. There's a record of me having been on that post.

Q. Did you run a xerox machine there or a mimeograph?

A. After I left the Guardian's Office.

Q. Where was that, that you did that?

A. Daytona Beach.

Q. What was that job?

A. It was the mimeographing collating of LRH Mission orders to do with the taking over of the Flag land base spaces.

Q. Who posted you to that position?

A. I was told, because I never saw anything in writing -- again, I wasn't there long enough -- that L. Ron Hubbard had said -- this I got from Bill Fosdick -- that I was removed from the Guardian's Office because I was resisting auditing; and at the same time, and I also got this from Bill, was to report to the mission preps area, where I ran the mimeo machine.

Q. Have you ever seen your personnel file?

A. No. Maybe sometime before I left the organization, I probably saw parts of it, but they refused to produce it.

Q. Did you ever take anything out of it before you left?

A. No.

Q. What did you see in it before you left?

A. Records of various postings that I had. This was some years before I left.

Q. Who is that woman, Ann, that you mentioned, that you had you go through lines to get to the LRH through her? Ann what?

A. Broker.

Q. Did you ever see anything in your personnel file written by her?

A. I don't believe so. Do you have something like that?

Q. Did you ever talk to Laurel Sullivan about the contents of your personnel file?

A. No.

Q. You applied to get into the Guardian's Office at one point, didn't you?

A. Yes.

Q. When was that?

A. 1975.

Q. Was your application accepted?

A. As far as I know; I never saw anything back on it.

Q. Did you ever become a part of the Guardian's Office?

A. Yes.

Q. When?

A. In November 1975; Daytona Beach.

Q. For how many days?

A. Approximately three weeks to a month.

Q. Is that when you were doing the decoding?

A. Yes.

Q. Were you ever in the Guardian's Office again?

A. No.

Q. When you applied to get into the Guardian's Office, what position did you want to hold there?

A. I did not apply for a particular position.

Q. What was it you had in mind that you wished to achieve in there, at the time you applied?

A. I don't know that I ever stated anything or put down a particular post.

Q. Did you wish to pursue your intelligence function that you had performed when you were Ship's Representative?

A. Ship's Representative was not an intelligence post.

Q. What was the post where you had that intelligence function when you reported to the Port Captain?

A. Intelligence Officer.

Q. Did you want to pursue the sharpening of your skills as an intelligence officer in the GO?

A. Yes.

Q. Did you feel that was where your talent really was?

A. To some degree, yes.

Q. Did you feel that was where you could do the most for Scientology?

A. That's probably the way I thought at the time, yes.

Q. Did you also feel that the GO was was really the path to power in Scientology?

A. Really the what?

Q. Path to power.

A. I never considered it at the time; I was not looking for power.

Q. You didn't consider the GO to be the power repository at Scientology at that time, I take it, then?

A. I knew that the GO was powerful in Scientology. I did not view it as my path to power.

Q. What did you view your path to power to be?

A. I don't think I was looking for power.

Q. Now, after you went up to Daytona and did that mimeographing, what was your next post?

A. Deputy LRH External Communications Aid.

Q. Where were you posted?

A. Dunedin, Florida.

Q. Who posted you to that position?

A. My senior was Mike Douglas. I don't recall whose name is on any issue or even if there was one.

Q. What's an issue?

A. An issue is a -- within Scientology is a published order of some kind, usually mimeographed.

Q. Why is the word "issue" used? What does it mean?

A. It means it's been issued, it's been published. It could be called a publication; it's called an issue.

Q. I see. We talk about an issue being a point that's in contest here. That is not the context in which an issue is used in Scientology; is that it?

A. Correct.

Q. Issue means to issue, to give out, to disseminate?

A. Yes.

Q. One writes issues?

A. Yes.

Q. Tell me about that. How does an issue get written? Because I see by your testimony that you were involved in writing issues up in Canada when you first went on staff up there.

A. I don't believe I ever said that I wrote them.

Q. Well, that's what my notes say; I could be very wrong. What did you have to do with issues up in Canada?

A. Some of the issues which are received, state that they are to be re-mimeographed; they have general public interest. So from one of these issues in Canada, I retyped it for mimeographing onto mimeo paper. I made stencils of it and ran off the stencils.

Q. How does an issue get to be published?

A. In the case of L. Ron Hubbard, he wrote it, sent it to the mimeo unit on Flag -- this was during the ship time, and later in Clearwater -- and it was typed up onto mimeo -- onto a stencil and then mimeographed. At one time, the original and the origit into the file which was prepared for that particular issue. The issue was distributed according to whatever distribution routing Mr. Hubbard had put on the upper left of the issue, itself.

In the case of someone else in the organization, issue authority was required, often from Mr. Hubbard, sometimes by people designated by him. The same procedure was followed with regards to the mimeographing of the issue and the storage and distribution of the issue.

Q. Issues flow up, do they not?

A. I don't know what you mean by that.

Q. Anyone in the organization can originate an issue; isn't that so?

A. That's correct.

Q. Any post you may hold in Scientology, you may say, "Gee, here's an issue that I think ought to be acted upon," and you can write it up and send it along the lines; correct?

A. Yes.

Q. And it flows from you up the lines, does it not?

A. Correct.

Q. And at some level, it either gets approved or disapproved?

A. Correct.

Q. Now, at each level some CSW gets done on the issue, doesn't it or can be?

A. No.

Q. What does CSW mean?

A. It means completed staff work.

Q. What does it have to do with an issue?

A. The completed staff work consists of a situation, a problem which needs to be resolved, the data on which a resolution can be arrived at, and the solution to the problem, and a line for approval or disapproval by the senior-most person on the routing of the CSW. So only the originator of the issue is preparing the CSW on which the issue is ultimately approved.

Q. And the CSW doesn't necessarily move along with the issue as it moves up the line; isn't that right?

A. Yes, it does.

Q. In every case?

A. Unless it's from L. Ron Hubbard.

Q. Did you ever participate in writing issues at any time while you were in Scientology?

A. Yes.

Q. Did you pass them up the line for approval?

A. Yes.

Q. Did you have prepared some CSW?

A. Yes.

Q. Now, after you were posted to Dunedin, whenever you got to Dunedin, to become communications -- what was your title?

A. Deputy LRH External Communication Aid.

THE COURT: We are going to take a quick recess for a moment with reference to the matter we discussed earlier.

MR. COOLEY: Yes, Your Honor.

THE COURT: We will resume in just a very few minutes.

(Jury was excused. Recess taken at 10:48 48 a.m. and court reconvened at 11:18 a.m.)

THE COURT: Bring the jury back.

(Witness resumed the witness stand. Following proceedings held in the presence of the jury.)

THE COURT: Mr. Cooley.

MR. COOLEY: Thank you, Your Honor.

BY MR. COOLEY: (Continuing)

Q. After you go to Dunedin, you occupied that communications position, what were you doing moving stuff back and forth between LRH and Washington and the Florida operation?

A. Initially when I got there, LRH was in Dunedin, so during that time I handled his communications at the Dunedin property. He left in approximately March --

Q. -- 1976.

A. 1976. And after that point, part of my responsibility was to be the relay between the Flag Land Base in Clearwater, Dunedin, and Mr. Hubbard and his unit in Washington, D.C.

Q. How much mail did you move back and forth? A lot?

A. Yeah. It varied by the day.

Q. Was it pretty heavy traffic every day?

A. There were some days when it was not; there were some days when it was.

Q. What kinds of communications moved back and forth?

A. The main communications dealt with the Flag Land Base at Clearwater. Mr. Hubbard was still operating missions while he was in Washington, D.C., and I was the relay to anyone at the Flag Land Base.

Q. What do you mean he was "operating missions"?

A. He had a number of missions which he was the mission Ops on. He operated them. He had missionnaires in the field. The field that the point happened to be the Flag Land Base.

Q. How did this mail come in? Come in envelopes or --

A. Yes, in envelope. Or if there was a great deal, then a box.

Q. Then it was put on a telex?

A. No.

Q. How was it transmitted? Let's deal first with the outgoing mail, the stuff that was going to LRH in Washington, D.C.

A. Okay. It was sent via the -- on Guardian's Office communication lines, and it was packaged up by me or someone working with me.

Q. What do you mean by packaged up?

A. In an envelope or in a box.

Q. Go ahead.

A. Okay. There were particular security arrangements involved. Individual pieces of mail, individual dispatches, orders, memos, were logged. They were written down as to what they were, a description of each one, and the individual pieces along with the mail log, mail slip, was put into a larger envelope. That larger envelope was then taped; every seam was taped. The tape was sliced, very fine slices with an Exacto blade or a razor blade, and then it was put in an oven where it was baked so the tape would go into the seams, so that if the mail was tampered will at all they would be able to tell because there was simply no way of not destroying the sealing procedure which we used.

After it was taped, then it was -- we would simply put "R" on the outside or to the relay point -- at that time we were using code names, so my relay point in Washington D.C. was a man by the name of Mike Douglas, my immediate senior. He was the LRH External Communicastions Aide, and I was the Deputy to LRH External Communications Aide. He went by "Maria," so I would put "Maria" on the outside of the package.

And then this was further put in another envelope or a bigger package and it was labeled to the AGDC, Assistant Guardian in Washington D.C. And then it was sent to the Flag Land Base, which was in Clearwater. We were about five or six miles distant; we were in Dunedin, and there were three mail runs daily by van which went between the two properties. And at the given time this was sent to the Flag Land Base. The Flag Land Base External Communications Unit transmitted mail of this type, packages, air freighted internationally from the Flag Land Base in Clearwater. And this would just look like any other Guardian's Office package.

Guardian's Office in Washington, D.C., upon receipt of this would give it to the messengers who were then in the Washington D.C. org. Claire and David Rousseau were two messengers and they were working in the Guardian's Office Communication Bureau in Washington, D.C., and they would pick up this package and take it to Mike Douglas or he would meet them or whatever. The communication link was in Washington, D.C., and then it would get to Hubbard.

Q. So you didn't use the mails?

A. No.

Q. You didn't trust the United States Mail?

A. I just did what I was told.

Q. And so you at all times then were able to read what was being packaged up and put along those comm lines that you just talked about?

A. Not always.

Q. Well, what stuff weren't you allowed to read?

A. Some of the communications from Mary Sue came to us in sealed envelopes for relay to Hubbard.

Q. That was -- Mary Sue was the head of the of the GO?

A. Yes.

Q. She was the Controller; correct?

Q. So some of that stuff you didn't get to see?

A. That's correct.

Q. Was there anything else -- excuse me. Did anything that eminated out of the GO come through so that you could see it, anything at all?

A. Yes. There were a number of things during that period.

Q. Like what?

A. The main things come to mind were -- there was a great deal of correspondence dealing with a program called Gold Mine. Gold Mine dealt with making money, IRS, taxes. There was the power -- Program Pone which comes to mind which was a Guardian's Office operation to get -- to create a third party situation, which means to create a conflict between the Rothschilds and the Rockefellers. There was a great deal of Guardian's Office correspondence dealing with the Flag Land Base itself.

Mr. Hubbard was -- during the time that he was in Dunedin -- was operating the Guardian's Office directly. He called it on a Phase 1, which meant that he was single-handedly running the Flag Land Base, including the Guardian's Office.

Q. When was this?

A. End of 1975, beginning of 1976.

Q. What piece of paper said that, and where did it come from?

A. Well, he talked about it a great deal and I have seen correspondence in which --

Q. He talked about it to you?

A. Yes.

Q. And where was this?

A. Dunedin.

Q. And you were at that time his --

A. I was the Deputy LRH External Communication Aide.

Q. What occasioned did these kinds of conversations between you and him?

A. Well, our offices adjoined at that time, and occasionally I would come in to the External Communications Bureau and talk to those of us who were there.

Q. Did he tell you he was single handedly running the GO?

A. Yes.

MR. WADE: Objection, Your Honor. Will he please be allowed to answer the question?

THE COURT: Let him answer the question before you ask another.

MR. COOLEY: I'm sorry.

THE WITNESS: Yes. He complained about that fact a number of times. It was a complainant of his. And there was a period in which he brought the Guardian's Office staff from the Flag Land Base to his office for a briefing, and I was there. I was not there for the briefing. I knew what it was for, and I knew the personnel, at least some of them. I knew they were Guardian's Office staff, and I knew the purpose they were there for, to be briefed by him.

And I have seen communications from him in which he mentioned that he operated the whole of the Flag Land Base move, that he -- the word was "masterminded" it. He masterminded it. He operated all the missions. And he was in what he called a Phase 1, which is a Scientology term meaning that he was single-handedly operating, doing all the work himself.

Q. How long did this last, as far as you know?

A. Well, this lasted until he left the Dunedin property in approximately March of 1976.

Q. And went to Washington, D.C.?

A. Yes.

Q. Was there anything else that -- anything that you weren't allowed to see other than those sealed communications from the GO?

A. No. There was nothing that I was not allowed to see. I did not go into sealed communications, but those are the things which come to mind right now that I did see.

Q. I take it you took the time to read everything that wasn't sealed?

A. No.

Q. Some things you read and some things you didn't?

A. In some cases. I knew what certain things were. I knew what certain programs were. I did not read everything. It didn't happen.

Q. What didn't happen?

A. I didn't read everything.

Q. You didn't have time, did you?

A. Didn't have time and didn't do it.

Q. All right. How long did you hold that post?

A. Until June of 1976.

Q. And then where were you posted then?

A. Then I was locked up for three weeks in Fiefield Manor, the Guardian's Office U.S. headquarters.

Q. What for?

A. It was on Mr. Hubbard's orders and he said I was a security risk.

Q. Whatever led him to that conclusion?

A. I had gotten in a fight with Mary Sue's communicator and we had exchanged curse words.

Q. What brought about this confrontation?

A. We had -- I really can't say everything that brought it about. I did not -- she was a fairly vicious person and I took offense to some of her viciousness on one occasion and definitely erred.

Q. What did she say to you in her vicious way?

A. She was going on about one of the messengers, I forget which one, she was complaining about some of the work which was -- which had been done. I can't tell you exactly what it was, but it was -- it was what I considered at the time, I guess, uncalled for, and I swore at her.

Q. That was all it was that created the belief in LRH that you were a security risk, that you swore at somebody from the GO?

A. That's it.

Q. Were there any written charges on that subject matter?

A. After the three weeks at Fiefield, I was sent to Clearwater on Hubbard's order and there was a telex ordering me and my wife at the time to Clearwater. Upon our arrival in Clearwater, I saw another order -- this was a telex, and it was addressed to the LRH Personal Communicator, Ken Erkhart. And it said that Terri, that was my wife, Terri and Jerry are assigned to the RPF. It said that Jerry had attacked the Guardian's Office and Terri had gone into agreement with me. And then there was a what's called a Flag Conditions Order, that was put out by the personal communicator, Ken Erkhart, saying again that we were assigned to the RPF. There had been no RPF up to that time, but we were assigned to it. And that the charges were, I believe, insubordination and a refusal of duty. Those were the issues.

Q. What happened to the charge of being a security risk?

A. Well, that -- you would never put that in an issue. Mr. Hubbard didn't.

Q. You were locked up in Fiefield Manor and did Mr. Hubbard had a talk with you?

A. I wrote him, he did not write back. I never talked to him after that for sometime.

Q. How much time?

A. Seventeen months.

Q. Were you in the RPF for seventeen months?

A. Yes.

Q. Was your wife Terri in with you?

A. For part of that time. She got out probably after ten months.

Q. Now, you and Terri are divorced, are you not?

A. Yes.

Q. Is her name Terri Gamboa?

A. As far as I know, yes.

Q. What position does she occupy in the Church?

A. I am not totally familiar. I knew that she worked for ASI some months ago. ASI is Author Services Incorporated. What her actual position is there, I don't know. I know that she was in charge in 1982 of what was called the Special Project.

Q. What was her name before she married you, sir?

A. Terri Gilham.

Q. Was she a Commodore's Messenger?

A. Yes.

Q. Is she in the CMO today, do you know?

A. I assume so. I don't know what -- whether or not ASI staff can legally say that they are or not. I don't know that.

Q. She was CMO?

A. Yes.

Q. At the time you left the Church, was she also on the Watchdog Committee? Or do you know?

A. I can't say that. She was in charge of the legal mission at that time. The legal mission which was responsible for taking care of Hubbard's legal problems. And she was involved with that. I do not know if she was then a part of the Watchdog Committee or not. She had not been sometime prior to that.

Q. What date were you divorced, sir?

A. Sometime in 1979.

Q. And did you remarry?

A. Yes, I did.

Q. What was your second wife's name. Was she a Scientologist first?

A. Yes, she was.

Q. Is she a Scientologist to this day, do you know?

A. No, she is not.

Q. Was she staff at some point?

Q. Yes, she was.

Q. She worked with you, too, didn't she?

A. Yes, she did.

Q. Her first name was what?

A. Jocelyn.

Q. And when were you married to her? During what period of time?

A. December 1980.

Q. Until December 1980?

A. No. I got married on December 1980.

Q. Did you subsequently -- you were subsequently divorced?

A. No.

Q. Are you still married?

A. Yes.

Q. Okay. She also left the Church of Scientology?

A. Yes.

Q. Did she leave with you on December 12, 1981?

A. Yes.

Q. When you came out of the RPF, I take it you went to the Renovations Unit; is that right?

A. No.

Q. Where did you go?

A. Initially I spent about maybe a week in Clearwater and I was proofreading and editing a movie script which Hubbard had done. And a book, a story which had been done in conjunction with the movie.

Q. Where was this. ?

A. Clearwater.

Q. Then where did you go?

A. Then I went to Los Angeles.

Q. What did you do there?

A. In Los Angeles, I worked in the CMO for maybe a week or ten days, something like that.

Q. You did not become part of the CMO, did you?

A. It was anticipated at that time that I was going to become part of the CMO or that was my understanding. It did not turn out. I worked in the CMO office at that time. I was never formally posted in the CMO.

Q. You didn't like the CMO, did you, sir?

A. I don't know where you get that from, Mr. Cooley.

Q. I'm just asking you. Did you like the CMO?

MR. WADE: Objection, Your Honor. Relevancy.

THE COURT: I think if he can answer the question yes or no.

THE WITNESS: It's -- I have nothing against the CMO. I do consider that some of the acts which they have carried out against me are atrocious and I think that what it became was that degraded situation.

BY MR. COOLEY: (Continuing)

Q. When did they carry out atrocious acts against you, sir, during what period of time?

A. Following my departure from the organization.

Q. Starting in December 12, 1981 until when?

A. Into 1984. Even now.

Q. Right up to now. What have they done against you?

A. They put out an issue, they -- claiming that I was -- they accused me of a number of things which were untrue. They carried on a Black PR campaign against me people to follow and harass me and my wife.

Q. The CMO did this?

A. They run the organization.

Q. All right.

A. They hired professional bullies to come after me.

Q. Did anybody beat you up. Were you beaten up?

A. I was pushed around.

Q. And did you recognize the professional bullies?

A. Yes.

Q. Were they Scientologists?

A. They denied being Scientologists during the Armstrong trial.

Q. Do you know their names?

MR. WADE: Objection, Your Honor. Can he be allowed to answer the question.

THE COURT: Yes. Let him finish the question and then you can ask him their names.

Go ahead, Mr. Armstrong.

THE WITNESS: They refused to give their names. It later turned out they were people hired by the organization. They sued me.

BY MR. COOLEY: (Continuing)

Q. What for? What did they charge you with?

A. With conversion.

Q. Conversion of what?

A. Of documents.

Q. What documents?

A. Documents from the Hubbard Archives.

Q. Did you take those documents with you --

A. No.

Q. -- when you left? Huh?

A. No.

Q. Did you take copies?

A. No.

Q. You didn't take anything?

A. No. They had people follow my wife and myself twenty-four hours a day for at least a month. They spied on us, spied in our house. They came on private property. I was hit bodily by a car driven by one of these people.

Q. What people?

A. One of the people who was hired by the organization.

Q. How do you know he was hired by the organization?

A. Because he admitted to it.

Q. Where?

A. When talked to him.

Q. He ran over you with his car and said he was hired by the organization?

A. He hit me in the elbow driving a car. Sometime later, he continued to follow me for probably a month after that, and I talked to him and found out that he was employed by the organization.

Q. Did you get his name?

A. No. He refused to give me his name. I got the name of one of the individuals.

Q. What was that?

A. I don't recall at this instance. I can get it.

Q. Where can you get it?

A. From my attorney.

Q. Will you do that.

A. Yes.

Q. Thank you.

Q. Go ahead.

A. One of these people got in front of my car on the freeway and slammed on his brakes, attempted to get my wife and myself in an accident. He came alongside me and swung into my lane.

Q. Who was there?

A. The same person who had earlier clipped me on the elbow with his car.

Q. The guy whose name you didn't get?

A. He refused to give it.

Q. Did this occur after the elbow-clipping incident or before?

A. After.

Q. Go ahead.

A. I was threatened by a person from the organization.

Q. Who?

A. Terri Gamboa.

Q. Terri Gamboa, your former wife?

A. Yes.

Q. What did she threaten you with?

A. Just prior to the Armstrong trial in approximately March 1984, she called up and said that she wanted to meet with me. And I said -- foolishly, I said okay. She wanted to meet in Griffith Park in Hollywood.

Q. Where is that?

A. In Los Angeles. And I went with her --

Q. Griffin or Griffith?

A. Griffith, G-R-I-F-F-I-T-H. I went there and met with her and she said that -- at that time the Armstrong trial was due to start within a couple of weeks, and it did start sometime in April. And she said that I better get out, and I said, "Why?" She said, "Things are going to get worse. Things are going to get worse for you." And I said, "What do you mean things are going to get worse for me?" She said, "Things are going to get worse." I said, "Listen, I have already been assaulted, I have been pushed around, I have been driven into. You know, I'm terrified now. How can things get worse?" She said, "Things are going to get worse." I should get out.

They wanted me, at that time, to drop the counterclaim which I have and to give them the documents which were the evidence of the wrongdoing which I had uncovered in the organization.

Q. What documents? Where were these documents?

A. These are the documents which I earlier talked about, at least part of them, and --

Q. Where were they?

A. They were documents which were then being held by the Los Angeles Superior Court.

Q. Are they documents that you took with you when you left or that you had taken before you left?

A. No. They are neither.

Q. Where did they come from?

A. After I left the organization, it was approximately April 1982, the organization took some photographs which I had. I was holding for -- I had some photographs of myself and I had some photographs from other people. When left the organization, I was broke and I had made a deal to sell these photographs. They were not the organization's photographs. But they took them, refused to give them back. And it was at that time that I knew that around the same time they put out an issue, one of these issues, conditions order, on me alleging that -- claiming that I was promotiong the research of Timothy Leary, that I was -- that I was trying to sell materials of the organization. And there were a number of other false data. And it was at that time, after they took these photographs, and after I knew that I was fair game and that it was my life and my wife's life were at risk, that I obtained from the author, who I had been working with, Omar Garrison, the documents which I sent to my attorney and which later formed what became the Armstrong documents, the documents which were in issue in my trial in Los Angeles.

Q. Where did the documents come from that you sent to your attorney?

A. From Omar Garrison.

Q. How many of them were there, can you tell me? Just in round numbers.

A. I think there are about ten thousand pages.

Q. You went down to Omar Garrison and got those documents; is that right?

A. I obtained all of those documents from Omar Garrison. I got them at various times in various contexts.

Q. When did you start collecting them?

A. Sometime around the time of the theft of the photos.

Q. When was that?

A. Sometime in April 1982.

Q. You were out of the Church then; right?

A. Yes.

Q. Where were the documents? What was the repository of the documents, or who was the repository of the documents?

A. Omar Garrison. I had continued to work with Omar Garrison, assisting him in research. The reason being that I happened to know -- I knew the story as well as anyone. He was not getting any help at that point from the organization, and I maintained for him some of these documents at my place. He had begun to have a duplicate of the documents that he had, the ones which he considered biographically important, made. The reason for that was he feared the organization, knowing what was in these documents and knowing what was in the documents was contrary to the PR which had been put out by Hubbard over the last thirty years. He had made part of a duplicate set and some of those I was maintaining in an office which I maintained for him in Orange County in California. So some of the documents which we are talking about came from what I had on hand.

Q. What do you mean, what you had on hand where?

A. In Mr. Garrison's office in Costa Mesa, California.

Q. How many of them? How many of the ten thousand?

A. I can't give you an exact -- the majority of them I got from him at various times. As I perceived it, the problem is the terror built, I obtained from him the documents which ultimately ended up with my attorney and then in the Los Angeles Superior Court.

Q. All ten thousand came from him?

A. Yes.

Q. Where did he originally get them?

A. From either me -- in large part, me. I had provided them to him from when the date of his signing the contract in October of 1980 through the time that I left in December 1981, I provided him with probably fifty thousand pages of documentation. And some of those I obtained back from him when the organization began to attack me.

Q. I take it then when you were serving and gathering up all of these documents, Garrison, having been selected as the biographer was furnished by you with documents from the PR Archives?

A. Not from PR Archives, but from the LRH Archives.

Q. All right. Were they ever called PR Archives by you?

A. No.

Q. They were always called LRH Archives by you?

A. Yes. Guardian PR Archives was something else.

Q. Were there tech archives, as well?

A. Yes.

Q. Now, you sent him about fifty thousand documents?

A. Probably I bound -- probably bound fifty thousand pages and there may have been as many unbound, so perhaps a hundred thousand.

Q. You testified on Friday that you assembled five hundred thousand pages with respect to LRH's background. Do you recall that?

A. I would say that the total in the archives itself, was probably five hundred thousand pages.

Q. And you sent how many of those to Garrison?

A. An estimate, a hundred thousand.

Q. How did you pick out the ten thousand out of the hundred thousand that you ultimately wound up with?

A. I chose them initially according to what I had. I gave Mr. Garrison virtually everything I could find which predated Dianetics in 1950. He did not have as great an interest in Scientology materials. That was not going to be the thrust of the biographer, so they were considered secondary; hence, what I gave him were documents dealing mainly with personal biographical interest.

Q. Who is the lawyer you gave them to?

A. Michael Flynn. Some also went to the firm of Contos and Bunch in Los Angeles.

THE COURT: It's a couple of minutes until twelve. We will recess for the lunch hour.

You all remember my cautionary instructions? Do we have to go through them now? I'll wait until tonight before we leave, one full time. For the time being, don't discuss the case amongst youselves or allow anyone to discuss it with you.

Okay. 1:30.

(Jury was excused.)

THE COURT: 1:30.

(Court recessed at 11:59 a.m.
Reconvened at 1:42 p.m.)

THE COURT: Are we going to go out of order?

MR. McMURRY: Yes, Your Honor.

THE COURT: Mr. Armstrong is out of the courtroom, I presume?

MR. McMURRY: Yes, Your Honor.

THE COURT: The reason is, he is from out of state?

MR. McMURRY: Yes, Your Honor.

(Following proceedings held in

THE COURT: I'm not saying you have to finish, I'm just saying let's put it in a posture where we can at least get out of here Friday.

MR. COOLEY: Sure. I've got a million logical breaking parts.

THE COURT: Mr. Armstrong, I think, is perfectly capable, from what I have seen about him, of handling himself.

MR. COOLEY: I agree with you, he is a very able witness.

THE COURT: He is a very able witness, indeed. Off the records.

(Recess was taken at 4:04 p.m. and reconvened at 4:18 p.m. Gerald Armstrong resumed the witness stand. Following proccedings were held in open court.)

THE COURT: You are still under oath, Mr. Armstrong.

THE WITNESS: Yes, Your Honor.

THE COURT: Get the jury.

Were those charts offered, Gary?

MR. McMURRY: Yes, Your Honor. 250 is in.

THE COURT: 250 and 251?

MR. McMURRY: Correct.

(Following proceedings were held
in the presence of the jury.)

CONTINUED CROSS-EXAMINATION

THE COURT: Mr. Cooley.

MR. COOLEY: Thank you, Your Honor.

BY MR. COOLEY:

Q. Mr. Armstrong, you gathered up five hundred thousand documents, as I understand your testimony, in the course of researching for the biography of L. Ron Hubbard; is that right?

A. That's a rough estimate. Somewhere in that neighborhood.

Q. That's an order of magnitude you think is roughly accurate?

A. Yes.

Q. And did you read them all?

A. No.

Q. How many of them would you say you examined in terms of reading their contents?

A. Probably a couple of hundred thousand.

Q. How did you select what you would read and what you wouldn't read?

A. Generally by topic.

Q. Were these all documents that predated the publication of Dianetics?

A. No.

Q. How many documents precede the the publication of Dianetics, roughly?

A. Perhaps thirty thousand pages.

Q. Were these the twenty-one cartons that you got put together starting with the first batch that was brought to you at Gilman Hot Springs?

A. Those plus other documents.

Q. What other documents? Just a category.

A. Documents came from Controller archives, some documents from PERS PRO files, some from PERS Sec WW files.

Q. Personal Secretary World Wide?

A. Yes.

Q. Now, how long did it take you to read the two hundred thousand documents?

A. I read documents from the time that I got them, which began in beginning of 1980, through 1984.

Q. Well, with respect to the pre-Scientology documents, you got about how many cartons from Gilman Hot Springs?

A. My recollection is twenty-one.

Q. Okay. Did you start reading them right away?

A. Some of them I read right away.

Q. How long would us it took you to complete the reading of these documents?

A. You have to understand that I did not read all of those documents because a lot of them were manuscripts and that sort of thing, which, once I assembled the various parts to make a complete manuscript, I knew that I had a complete manuscript, I didn't necessarily read through the whole manuscript. Some I did, some I didn't. I pretty well completed the reading and copying of those documents, as far as I went, by sometime in 1981, at which time I had pretty well delivered them all to Omar Garrison, copies of them.

Q. You testified on direct examination you put approximately six thousand hours into the research project. Over what period of time were you applying that six thousand hours, sir?

A. From the beginning of 1980 through when I quit working on it.

Q. Which was when?

A. Well, I worked intensely up through December of 1981, and then I worked a period of time thereafter, working for Mr. Garrison outside of the organization.

Q. You are counting, then, hours after you left Scientology into that six thousand?

A. There's a small portion of it, but the bulk of it is included in the two years inside the organization.

Q. That's when you really did most of your work, isn't it?

A. Yes.

Q. Working on the average how many hours a day?

A. I would say fourteen at an average.

Q. How many days? Three hundred sixty-five days a year?

A. No, I got a day off every two weeks.

Q. You took twenty-six days off. So if we were to multiply that out -- Do you want to use fourteen hours a day?

A. That's fine.

Q. -- that would be three hundred and therein days, if you use twenty-six days off. Is that all you got off?

A. That's fine.

Q. Times fourteen hours, that would give you four thousand seven hundred forty-six hours the first year. From January 1980 to January 1981.

A. Okay.

Q. So roughly forty-five to five thousand, in the first year; right?

A. I wouldn't estimate it that way. I would put the bulk of the work into the second year.

Q. The bulk of the work into the second year?

A. Yeah.

Q. Well, how many hours did you spend on it in 1980, out of the six thousand?

A. When I gave you the rough calculation, I figured about two and four.

Q. Two thousand in 1980 and four thousand in 1981?

A. Something like that. And perhaps some hours into 1982, 1983, 1984, maybe a thousand in those years.

Q. All right. Two thousand in 1983, two thousand in 1981, and a thousand thereafter. Okay. When, for example, do you remember running across the transcript of L. Ron Hubbard's grades at George Washington University, for the first time?

A. My recollection is that that was included in the material from Gilman Hot Springs, and I provided those documents to Garrison or copied them in the -- sometime in the end of 1980, early days of 1981, so I would have had it sometime prior to then.

Q. You would have examined it sometime prior to that?

A. Yes.

Q. And the fact of its inconsistency with other matters that had been published, became readily apparent to you at that time; is that correct?

A. That among many inconsistencies throughout those two years.

Q. The veru saw it you were conscious of an inconsistency, weren't you?

A. Yes.

Q. And that was when?

A. Sometime, again, like I say, the end of '80, beginning of '81.

Q. That was one of the documents you got in January 1980 at Gilman Hot Springs?

A. Yes. I never found it at that time, but it was amongst those documents.

Q. And when did you start reviewing those documents?

A. I reviewed some of them initially right away. Then there was a period of time in which I was involved in the Nobel Prize project and the mission called MCCS, Mission Corporate Category Sortout.

Q. My question is, when?

A. I'm answering that.

MR. COOLEY: I move that any testimony on MCCS be stricken as unresponsive.

MR. WADE: Your Honor, I object to the questioner. He is trying to answer the question; he is being interrupted.

THE COURT: You are going to have to give him a chance answer the question.

MR. COOLEY: Just on that subject matter, I move that it be stricken.

THE COURT: Ask the question again.

Listen carefully to his question.

BY MR. COOLEY: (Continuing)

Q. The question is --

THE COURT: Just a second, let me finish with the witness.

If it requires an explanation, you can say it requires an explanation. Either I'll allow it then or we will allow it when Mr. Wade comes back to it. Okay?

THE WITNESS: Okay.

THE COURT: All right.

BY MR. COOLEY: (Continuing)

Q. When did you first see the document? You say it's late 1980 or early 1981?

A. At least by then.

Q. My question is, when did you start reviewing those Gilman Hot Springs documents?

A. Well the initial -- the first day that I saw the Gilman Hot Springs documents was in early January 1980.

Q. And did you review those documents over a period of time and then suspend your review?

A. I don't follow your question.

Q. Did you review them for a period of time, starting in January of 1980, and then have occasion to stop reviewing them?

A. I stopped reviewing them during the period of --

Q. Can you give me a date when you stopped reviewing them?

THE COURT: You are going to have to let him answer his questions.

MR. COOLEY: I think, Your Honor, I have to explain to the Court what my problem is here.

THE COURT: Okay. Because there seems to be one. He seems to be attempting to answer a question and --

MR. COOLEY: Yes, I know what he is attempting to do, Your Honor.

THE COURT: Well, I don't, so maybe you had better tell me.

(Following proceedings held in chambers.)

MR. COOLEY: The problem I have is avoiding opening up on cross-examination, a subject matter which I do not intend to elicit from the witness, but which he gets in by making it a time reference instead of giving me a date. I do not wish to open up on cross-examination the MCCS situation.

THE COURT: What's MCCS?

MR. COOLEY: It's an abbreviation for a corporate catagories sort out. I don't want to open that up and then have them come in an say I have opened it up on cross-examination. This witness is trying his damnedest to do that.

THE COURT: All right. You're trying to confine it without letting something open up you don't want opened up on cross. How can we go about doing this? That's a perfectly legitimate request. He doesn't want to open up something and then be accused he's opened it up in cross-examination.

MR. WADE: I believe that all Mr. Armstrong was trying to do was trying to say that he was working on a Nobel Prize project for a period of time, the MCCS Mission, so he could explain what periods of time he worked on those areas.

MR.COOLEY: All I want him to do is give me a time where in 1980 -- he can say from the spring to the fall; I can live with that. I don't want him to identify it with reference to an event.

THE COURT: The answer to that is, rephrase your question. Just give me a reference in time, spring to fall, without associating it with any other event, in the time sequence that you are talking about.

MR. COOLEY: I will, Your Honor.

THE COURT: Okay. Then you can live with that kind of question.

(Following proceedings held in presence of jury.)

THE COURT: Okay. Mr. Cooley, ask your question again.

MR. COOLEY: Thank you, Your Honor.

BY MR. COOLEY: (Continuing)

Q. Without referring to any events, but merely to time, a month and a period, can you tell me during what period of time, if any, in 1980 you were not reviewing the Gilman Hot Springs documents?

A. During the period of time from perhaps March and April.

Q. March and April. And then did you again review them again in June?

A. Probably in May.

Q. And did you -- in that summer you took a trip, didn't you, up to the coast to California?

A. That's correct.

Q. You didn't go over into Wyoming or that area at that time, did you?

A. No.

Q. You were interviewing people in California?

A. Some, yes.

Q. Would you tell me what persons you -- the names of the persons you interviewed in California during the summer of 1980?

A. There were some people at the San Francisco Org, and I don't recall their names. They were Org personnel. The main people that I interviewed on that trip were Reno DeCamp, Margaret Roberts and her daughter. And there's another one of Hubbard's cousins, and I don't recall the name at this moment. Lou -- Mary Lou, I believe was her name -- Farmer. Mary Lou Farmer and her husband.

By the way, the name you wanted of the private investigator was Gregory Alton Osbourne.

Q. Gregory -- you mean the last time you were here, I asked you about that?

A. Yes.

Q. Gregory Alton Osbourne. Okay. Getting back, what was that Margaret and her daughter? What was the last name?

A. Roberts. There were a number of other people I don't recall at this time.

Q. You don't remember names. Now, did you keep -- did you make memoranda of your interviews?

A. I recorded and transcribed at least some of the tapes. I provided the recording to Omar Garrison at some point.

Q. To keep copies? Did you keep copies?

A. I don't believe so. The only copy there was I gave to Garrison.

Q. Now, was Reno DeCamp related to L. Ron Hubbard in any way?

A. Yes.

Q. What was the relationship?

A. Cousin.

Q. And Margaret Roberts and her daughter, were they related?

A. Yes.

Q. In what way?

A. Margaret Robers was a -- an aunt, and the other one was a cousin.

Q. And Mary Lou Farmer?

A. Cousin.

Q. Now, this was in the summer of 1980. What month? July, August?

A. August.

Q. Did you obtain information from them that had any bearing upon the ranch in Wyoming?

A. There was no ranch in Wyoming.

Q. I'm asking you whether you asked them about that subject matter.

A. I didn't ask about a ranch in Wyoming.

Q. How did you determine that there was no ranch?

MR. WADE: Your Honor, objection. Beyond the scope of exhibits.

MR. COOLEY: That's an exhibit that you put in, sir.

THE COURT: Let him make his objection.

It's overruled, Mr. Wade.

Go ahead.

BY MR. COOLEY: (Continuing)

Q. How did you determine that there was no ranch?

A. I never said there was. He never said there was. No one has ever said there was.

Q. Did you conduct any investigation concerning Mr. Hubbard's youth and where he was raised with these cousins that you interviewed, and the aunt?

A. Yes.

Q. Did you determine from those interviews that there was any inconsistency between the published biography and what they said?

A. Yes.

Q. And what was that inconsistency?

A. To begin with it had to do with the ranch in Montana.

Q. Ranch in Montana. All right. And what's the inconsistency?

A. Hubbard had said that he was raised on his wealthy grandfather's cattle ranch in Montana. In another place he said it was one quarter the size of Montana. His family denied the existence of a cattle ranch in Montana. His grandfather didn't have one; he ran a coal business and lived in town in Helena, Montana.

Q. Well, now, this you determined in the -- in July of 1980?

A. That was the information which I got from them at that time.

Q. Did you do any further checking on the question of the alleged ranch in Montana?

A. Yes.

Q. What did you do?

A. In the summer of -- late spring, early summer of 1981 I went to Montana with Omar Garrison, and there we interviewed yet another cousin and we searched records for the existence of a ranch and we checked with a couple of other people in Helena, Montana, for this ranch.

Q. And you found that the information given to you by the previous summer you concluded was accurate?

A. Yes.

Q. Now, when you found out in the summer of 1980 that there was an inconsistency in the biographical material, did you go hat right then and there?

A. Around that time, the first person that I went to about these things was Laurel Sullivan.

Q. When?

A. Sometime in 1980; maybe it was early 1981, but it was around that time.

Q. And did you talk to her about this alleged Montana ranch, among other things?

A. I mentioned to her a number of inconsistencies; I don't recall if that was one of them at that time, but I definitely brought up inconsistencies to her.

Q. And what other inconsistencies did you bring up to her at that time?

A. Mr. Hubbard's academic credentials, his claims of being an atomic physicist, his claims of being a civil engineer, his claim of being a scientist, the crippled and blinded one.

Q. When were you aware of all these? Were you aware of all of these inconsistencies in 1980?

A. I became progressively aware of them as time went on.

Q. I would like you to tell me when you became aware of each one and who you went to about it.

A. I simply cannot tell you when I became aware of each one. The first inconsistency was something like February 1980.

Q. Which one was that that?

A. Had to do with his claim of -- he claimed that he had written the script for the screen play for the movie, Dive Bomber. And he claimed that he had written this at the beginning of the war and then had received $10,000 for it which he used at the end of the war to go on a cruise. And this was inconsistent with other Hubbard information that I had.

Q. What other information, and where did you get it.

A. Mr. Hubbard was writing to the Veteran's Administration, at the end of the war, claiming that he was pennyless and asking them for a greater disability pension. There was a conflict at various points between who he remembered acted in the movie.

Q. What was that movie. Hell's what?

A. It was called Dive Bomber. I found a short story which he had written called "The Dive Bomber", and the two story lines were completely different.

Q. Well, now, in February 1980 when you uncovered this inconsistency, who did you go to? Did you go to Laurel with it in February 1980?

A. Initially, I went to Laurel.

Q. Did you write to her about it?

MR. WADE: Objection, Your Honor. Could he be allowed to answer the question.

MR. COOLEY: I'm sorry, I thought he answered.

THE COURT: You have to give him an opportunity to answer.

BY MR. COOLEY: (Continuing)

Q. Go ahead.

A. The reason that "The Dive Bomber" situation came up was --

MR. COOLEY: The question is, Your Honor, who did he go to? That's all I'm saying. I didn't ask him the reason the question came up.

THE COURT: Who did you go to about that particular issue?

THE WITNESS: I'm went to the Safe Environment Fund. And I went to Laurel.

BY MR. COOLEY: (Continuing)

Q. Was that in February of 1980?

A. Yes.

Q. All right. Now, did you write her a memo?

A. I wrote to the Safe Environment Fund, Hubbard wrote a memo.

Q. I'm asking you whether you wrote Laurel Sullivan a memo concerning the inconsistency? Yes or no?

A. I wrote to the Safe Environment Fund; it went via Laurel.

Q. Okay. And you reported this inconsistency?

A. I reported the information that I had at that point. I did not cite it as an inconsistency, but rather that perhaps they should not be promoted what they are promoting due to the information which I had discovered.

Q. All right. When was the next discrepancy or next inconsistency that you uncovered?

A. From there on, I can't tell you which was next or exactly when they occurred. It was a cumulative effect. I kept finding discrepancies and more discrepancies and it just became overwhelming. I can't give you dates. I can tell you that by December 12, 1981, I had satisfied myself that the man had virtually lied about every significant thing in his life, but I can't tell you when or give you particular dates.

Q. And it disturbed you as each of these came up, didn't it?

A. It's -- it's difficult to go back over the whole scene. I can tell you that I was definitely disturbed in 1981. Prior to that, somehow my mind was able to excuse these discrepancies or continue to try to look for something which would explain them.

Q. Well, by the time you wrote a memorandum here that was going into evidence, setting forth thirty-five or whatever number it was -- forty, you were very disturbed, weren't you?

A. I don't think that I was as disturbed then as I ultimately became, but I was definitely on my way. I was taking steps then that no Sea Org member had ever taken before. I was questioning the truthfulness of L. Ron Hubbard.

Q. In writing?

A. In writing.

Q. And you would not, under any circumstances, advocate those lies be perpetuated in any manner, shape or form, would you?

A. No.

Q. And you never did, did you?

A. I don't get your question.

Q. You never did, did you?

A. Never did what?

Q. You never did say that it was all right to lie so long as you couldn't be checked?

A. I'm still not following what your question is.

Q. I will leave it for another time, then.

Your petition to L. Ron Hubbard to be posted to handle research for his biography and related projects, which was dated January 1, 1980, set forth what your view was of the duties that you would perform in that role; correct?

A. Yes.

MR. COOLEY: I wonder if I could give the witness a copy of Exhibit 181 and save the clerk time of hunting for it. I think 181 has been received.

THE COURT: 181 is received.

BY MR. COOLEY: (Continuing)

Q. I placed your petition in front of you, sir. And I ask you whether you felt that this arrangement created a relationship of trust and confidence between you and L. Ron Hubbard.

A. I thought so.

Q. You knew that from the Gilman Hot Springs documents and personal documents that were coming to your -- into your possession that you were being given the documents that were personal, private documents of LRH, that he had accumulated over the years and that had been accumulated about him?

A. Yes.

Q. You had his correspondence with his wives?

A. Yes.

Q. You had his diaries?

A. Yes.

Q. You had personal documents of his, his correspondence with others?

A. Yes.

Q. And he entrusted those documents to you, did he not?

A. Yes.

Q. Did you continue to view your position as one of trust and confidence?

A. Not after a certain point.

Q. And when did you decide that you no longer held a position of trust and confidence?

A. After the organization attacked me.

Q. Could you give me a date?

A. April 24, 1982.

Q. Up to then, did you believe that you occupied a position of trust and confidence?

A. My position relative to L. Ron Hubbard is -- it's a very difficult thing to talk about. It's a very complex issue for me. Up until that point, I did nothing to L. Ron Hubbard. I felt for sometime, a lengthy time prior to that, that I had been betrayed, ripped off. I had been rmed. But I still didn't do anything. And it was only when I knew that the only recourse I had was to get this information into -- ultimately to say what had happened and what L. Ron Hubbard had done. That was the only possibility I had to protect myself. Even now, ultimately --

MR. COOLEY: May the answer from this point on -- after April 24, 1982, be stricken, Your Honor, because I'm merely calling for when he said he felt he stopped occupying a position of trust and confidence.

THE COURT: I think the answer requires more of an explanation than that. I'm going to overrule it.

MR. COOLEY: He started to say even now, he is going on. But I take it the Court's going to allow that?

THE COURT: I'm going to let him say what his feelings were regarding his position of trust and confidence.

MR. WADE: Mr. Armstrong, you may continue.

THE WITNESS: I think I have pretty well said it all.

BY MR. COOLEY: (Continuing)

Q. So that is it fair to say that until April 24, 1982, you felt that you occupied a position of trust and confidence in dealing with these intimate, personal papers of L. Ron Hubbard?

A. Again, it's very difficult to say, because for many months prior to that, I felt like he had absolutely betrayed my trust. I hadn't done anything, but that was how I viewed that relationship. The relationship was one of his betrayal of me. I had given him my life and I had given him everything. And it just became more and more apparent that that was the situation. Even then, when I left the organization, I had -- I was not going to go after L. Ron Hubbard or destroy him or had no such intention. But when it became apparent to me -- and it began right in January of 1982, when I knew that there were intelligence operatives from the organization who were after me, that something was going to happen. And -- I don't know. I considered that I had done nothing to hurt L. Ron Hubbard, even saying that I --

MR. COOLEY: Your Honor, can I cut this answer off at any point. I have only asked the man whether it is a fact up to April 24, 1982, he felt that he occupied a position of trust and confidence. I assume by what he said the answer is no.

THE COURT: Do you have anything further?

THE WITNESS: No. I think that's it. Your Honor, it's very confusing. In the organization, we all occupied positions of trust and yet you really didn't know what you were doing. You were absolutely -- your mind was controlled though out the whole period.

BY MR. COOLEY: (Continuing)

Q. You had the most intimate documents of the man's life. Nobody else in the organization was entrusted with that as an initial manner, wernot that I know of.

Q. And you felt that that placed upon you an obligation of trust and confidence at the time you filed a petition with him, didn't you?

A. And that's how I acted.

Q. In fact, you state in the second paragraph of your petition, "I feel it warrants a petition to you because it entails research on your personal time track and the person doing such would have to have your trust."

A. Yes.

Q. Now, I'm going to ask you once again, if April 24, 1982, isn't the date, can you give me a date? And by that, I mean either a specific date, a week, a month, a season, or a year, as specific as you can within that range, of when you reached the conclusion that you no longer occupied a position of trust and confidence with respect to those documents?

A. I suppose when I ultimately made the decision to send whatever documentation I could to my attorney.

Q. To Michael Flynn.

A. Yes.

Q. And when did you make that decision?

A. Sometime in perhaps May of 1982.

Q. And what is the amount of the claim that you are asserting against L. Ron Hubbard down in Los Angeles, sir?

A. There are four causes of action, fifteen million each.

Q. That's sixty million dollars?

A. That's correct.

Q. And have you sued anybody else, have you counterclaimed against anybody else down there?

A. Scientology California and International.

MR. COOLEY: I'm about to move to a new subject matter, Your Honor.

THE COURT: I think it would be an appropriate time to recess. It's now a little after five.

Okay. We will recess for the evening. Please remember all my cautionary instructions. I went through them fully already once this week. I won't do it again at this point. I'm sure you all know what they are. 9:30 tomorrow morning. We might be a little later. I have a sentencing matter at 9:00 that may take some time. So we are shooting for 9:30, but I don't know whether we will make it or not, but let's try.

Please leave your notes in the jury room.

(Jury was excused.)

THE COURT: Okay.

(Court recessed at 5:05 p.m.)

(Court reconvened on Wednesday, April 3, 1985, beginning at the hour of 9:54 a.m.)

(Mr. Armstrong resumed the witness stand.)

THE COURT: You are still under oath, sir.

Get the jury.

(Following proceedings held in the presence of the jury.)

THE COURT: Good morning.

Mr. Cooley.

MR. COOLEY: Thank you, Your Honor.

BY MR. COOLEY: (Continuing)

Q. On January 8 you filed your -- or submitted your petition to L. Ron Hubbard to, which according to Exhibit 182, he responded on January 11, saying that your proposal sounded like an excellent idea and telling you to get with your senior and get this worked out and let me know what you have worked out.

Now, Laurel Sullivan was your senior at that time, was she not?

A. No.

Q. Who was?

A. Kima Douglas.

Q. What was her role?

A. She was the CO HU, of the Household Unit. Commanding Officer of L. Ron Hubbard's Household Unit.

Q. You were stationed -- you were posted to the Household Unit at that time?

A. Correct.

Q. So I take it you got with her and arranged for your replacement?

A. Yes. I had already worked the replacement out by that time.

Q. And did you also get with Laurel Sullivan to discuss the role that you would play working for her?

A. I don't know if I discussed it. We did discuss it over the next while. It had already been described in the petition which I had sent to Mr. Hubbard. There were specifics to be worked out where I would work, where my desk would be and where to put the boxes and materials and that sort of thing.

MR. COOLEY: May I approach the witness, Your Honor?

THE COURT: You may.

(Defendants' Exhibit 870 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants' 870 for identification and ask you what that is, sir?

A. I have never seen this before.

Q. Do you recognize it as a communication from Laurel Sullivan and do you recognize the initials of Michelle Aramio?

A. Yes.

Q. What position did she occupy?

A. She is noted here as the messenger on duty.

Q. Did you know what the messenger on duty was?

A. The messenger on duty is the person who is with L. Ron Hubbard who is handling his traffic, his dispatches and that sort of thing.

Q. Do you see the salutation on the letter, "Dear Sir"?

A. Yes.

Q. Now, is -- are those Laurel Sullivan's initials next to Senior Personnel, PRO?

A. Yes.

Q. Whose initials are those where it says "M on D"?

A. Those are, I believe, Michelle Aramio.

Q. On the last page are those also Michelle's initials?

A. Yes.

Q. Does all of that indicate to you that this is the submission by Laurel Sullivan of the request for your position and for one additional position, which was approved?

A. Yes.

MR. COOLEY: I offer it, Your Honor.

THE WITNESS: I had already been approved by that time and she references that in here.

MR. WADE: Well, Your Honor the only problem we have is he cannot identify the document. I would suggest that we would save this until the noon recess and I will take a chance and read it.

THE COURT: Okay. It's not been authenticated. He can't identify it.

MR. COOLEY: I thought he identified the initials and the like, Your Honor. I thought he testified it was the approval.

THE COURT: He said he's never seen the document before is what I thought he said.

THE WITNESS: That's correct, Your Honor. I have never seen this until this moment and I had already been approved.

THE COURT: That's all you need to say.

BY MR. COOLEY: (Continuing)

Q. What writing did you refer to that constitutes your approval?

A. The document received from L. Ron Hubbard.

Q. Exhibit 182?

A. Yes.

Q. Now, did you write to L. Ron Hubbard?

A. Yes.

Q. After you received what has been marked as Exhibit

182?

A. Yes.

Q. Submitting what is known as a "needed and wanted"?

A. Yes. New post non-existence formula.

MR. COOLEY: May I approach the witness, Your Honor?

THE COURT: You may.

(Defendants' Exhibit 871 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what's been marked as Defendants' 871 and I ask you if that is the non-existence formula which you prepared?

A. This is one of several that I prepared. This is not the one I believe that went to L. Ron Hubbard.

Q. To whom did this go?

A. This went to various people within the Scientology network.

Q. You say that did not to go L. Ron Hubbard?

A. No.

(Defendants' Exhibit 872 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what's been marked as Exhibit 872 for identification and ask you whether that refreshes your recollection?

A. About what?

Q. As to whether Exhibit 871 went to L. Ron Hubbard?

A. No, it didn't go to L. Ron Hubbard.

Q. Did the letter of February 5, 1980 go out? Is that a letter you wrote and is that your signature on it?

A. Yes.

Q. And that letter says, "Attached is my none-existence formula which I have sent to R." That's L. Ron Hubbard, isn't it?

A. Yes.

Q. "And various execs at SU," which is?

THE COURT: We are referring to an exhibit now that's not been offered or received.

MR. COOLEY: I'm sorry, Your Honor. I offer it.

MR. WADE: Which one are you offering? Both?

MR. COOLEY: Yes. I'm offering the letter and the attachment referred to.

MR. WADE: No objection.

THE COURT: That is what 872 consists of?

MR. COOLEY: Yes. It's a letter from the witness to various people, dated February 5, 1980, "Re: New post non-E formula."

THE COURT: All right. 872 has been received.

(Defendants' Exhibit 872 admitted into evidence.)

BY MR. COOLEY: (Continuing)

Q. Now, can you tell us, sir, the routing of this letter? At the top is C. Do you see C?

A. Right.

Q. That's controller, isn't it, that's Mary Sue Hubbard?

A. Yes. There are a number of documents here. The first one, the first page which has the exhibit number on it, this is not mine and I didn't prepare it.

Q. You mean the cover sheet?

A. Yes. Now, what exactly -- I did not send the non-existence -- new post non-existence formular, which here I have sent to Mary Sue; to these particular people, so I'm not sure how this -- how this routing occurred. It could be there. Mary Sue may have sent her answer back to me and to -- may have CC'd -- carbon copied -- these various people. In any case, the next page was prepared by me, that is the document dated 5 February 1980.

Q. The next two pages?

A. Yes.

Q. And that was your covering letter with which you sent your non-existence formula?

A. That's correct.

Q. Could you tell us what a non-existence formula is.

A. In this case, it's a new post non-existence formula. There are various ethics conditions in Scientology. They run from power at the top, affluence, normal -- we are going down -- emergency, danger, non-existence, liability, doubt, enemy, treason, confusion, no condition. When someone takes over a new post in Scientology, he begins in a condition of non-existence. Part of the immediate action on taking over a new position is to let the people who need to know that you are on that new post know that you are on it, so you communicate to them. And part of this communication to them is to let them know what your -- that you are on post, what post duties are, how your post fits with their post, and then to ask them what they need and want -- needed and wanted -- they need and want from you on that post. It's called a new post non-existence formula.

From there, one either goes up in terms of condition on the post, depending on whether or not your stats are up, statistics; or one can go down, the assigned conditions below non-existence.

Q. Now, this non-existence formula was sent to Mary Sue Hubbard?

A. Yes.

Q. Was it also sent to the -- to CC?

A. CC in this -- used here capital C capital C is Controller Communicator. Mary Sue Hubbard was the Controller, her personal secretary, almost, her communicator, was Nikki Merwin. That's the CC.

Q. Did it follow -- I mean the bomb references Senior Personal PRO Researcher, that's you; right?

A. Yes.

Q. That's the new post?

A. Yes.

Q. And the next level up that shows the routing on this letter is Senior Personal PRO?

A. Yes, yes.

Q. And that's -- that is Laurel Sullivan at the time, right?

A. Yes.

Q. And there's a little note there that says, "On mission."

A. Yes.

Q. Does that indicate she was not there when you wrote this?

A. Yes.

Q. What mission was she on, do you remember?

A. Yes, I do.

Q. What was it?

A. At that time, there was a problem with L. Ron Hubbard's accounts in various banks. Specifically I recall a bank called -- or an account called the E.F. Hutton account, and she was sent on a mission to visit the various managers of these banks or people in charge of the accounts to reestablish communication lines with them. She would better be able to describe it, but that is how it was described to me.

Q. At any rate, she was not there and so this one actually didn't go to her directly at that time?

A. That's correct.

Q. Correct?

A. Yes.

Q. Did you bring it to her attention when she returned?

A. Yes. I would have -- I don't recall specifically, but I would have -- she would have seen it on the return or I would have left a copy for her.

Q. Now, this letter of February 5, 1980, were you writing this letter to Mary Sue Hubbard?

A. Yes.

Q. Was it customary to refer to Mary Sue Hubbard in the mail "Dear sir"?

A. Yes. That was only the case within the Sea Organization; it was -- it was not the case within the Guardian's Office.

Q. Now, why did you not -- strike that. You are not -- or your nonexistence formula was supposed to go to L. Ron Hubbard, wasn't it?

A. My nonexistence formula did go to Hubbard.

Q. Why did you also send it into the Guardian's Office?

A. I sent it to a number of people within the Organization with whom I would have to have some dealings during the time that I was on that post, and in order to carry out my various duties. Mary Sue Hubbard, to begin with, because she was the wife of the subject, and certainly the fact they were married and their life together and their children and so on would be of considerable interest to the biographer, I communicated to her for that reason. Also, because she was over the top of the Guardian's Office which was the major arm of power within the Scientology network, and also because under her was what was called the Controller Archives which was a major repository of materials which had some biographical interest.

Q. Now, is the document which is attached to the letter of February 5, 1980, namely the document dated February 3, 1980, is that your nonexistence formula?

A. The document on top is a non-existence formula. The document below is a non-existence formula. And there was at least one more which I did, which was specifically for L. Ron Hubbard. So, yes, it is a non-existence formula.

Q. In your letter of February 5, in the fourth paragraph, you say "I consider the biography a very, very important product, and there will be no degrade on any aspect of it it." What is the term "degrade" mean?

A. Used here it would be -- the intention was to make it a major work by a known author. We would -- therefore not be -- you know, it would be a hardbound volume; we wouldn't put it out as a little public pamphlet. It would be well written. It wouldn't be a trashy book; it would be a professional, top-grade product.

Q. On Page 2 you say "Garrison and I will have to have a line to 'R' for verification of certain data as it comes up." Did you ever have a line to "R" in connection with this biography work?

A. I had one through February 1980, and thereafter there was -- I mean there was a line thereafter. In fact, I received a request from Hubbard for certain materials, but I could not maintain a regular communication line thereafter.

Q. Third paragraph on Page 2 says, "Ideally Garrison would personally interview 'R'. If done, this would put the biography in a different league from any other commentary which might be done in the future. I have asked 'R' on this, and how we handle will depend on his answer."

Did you ask Mr. Hubbard to grant an interview to Omar Garrison?

A. That would have been in the non-existence formula which I sent him.

Q. And did he ever agree to interview Mr. Garrison?

A. His response has been entered into evidence, and he did not mention it in his response.

Q. At any time after you left the Church, did Mr. Hubbard agree to an interview by Mr. Garrison?

A. Not that I know of.

Q. Now, you mention in this letter that you think that Mary Sue ought to have a book done on her, as well. Do you see that? Or, you say, "I'm sure your story would, itself, make a great book and some day it undoubtedly will."

A. Yes.

Q. Did you have any plans to do a separate book on Mary Sue Hubbard?

A. No. That was nothing to do with this project. Her -- obviously, as I say, the woman had by then been married to the man for twenty-eight years and was running the Guardian's Office for him, so she had to play a part in the book. You couldn't just leave her out.

Q. I understand that. I'm talking about a separate book devoted to her.

A. That was not part of this project.

Q. Was it anything you had in mind for the future?

A. It was nothing that I then had in mind.

Q. Now, you have put in -- it has gone in as Plaintiff's Exhibit No. 183, which is a communication to you and to a lot of other people, or copies to a lot of other people, from L. Ron Hubbard on -- under date of February 8, 1980. He says to you that he thanks you very much for your "needed and wanted." What is a needed and wanted?

A. Needed and wanted is a part of the new post non-existence formula. They were sometimes used interchangeably, and I have described what a needed and wanted is as a new post non-existence formula. Part of the new post non-existence formula is to ask the person to whom it's addressed, "What's needed and wanted? " And this whole process was called both: new post non-existence formula or needed and wanted.

Q. And he says, "I would like regular briefing as to progress of the book and other projects you are working on." I Did you send regular briefings to Mr. Hubbard?

A. There was one briefing which was sent following this -- following the original non-existence formula, the needed and wanted. Thereafter, when the CMO -- when the personal office and the rest of us moved from Gilman Hot Springs, I was instructed by Laurel that nothing further could be sent to Mr. Hubbard. So it did not make any sense for me to thereafter prepare briefings to Mr. Hubbard when we could not admit to a line of communication to him.

Q. Did you send regular briefings to Laurel?

A. Laurel kept briefat least a couple of briefings to Mary Sue Hubbard.

Q. Did you send weekly reports to Laurel?

A. During a period of time she requested that I do that, and I did.

Q. How many, do you remember?

A. No.

Q. Did you send regular briefings to Mary Sue Hubbard?

A. They were not weekly. I did send her a couple of briefings throughout the time that I was on the post. She also was in touch with Laurel on almost a daily basis, and Laurel kept her briefed on the progress. They talked by telephone on a regular basis throughout that period and discussed the biography project. So Mary Sue Hubbard also was kept briefed.

(Defendants' Exhibit No. 873
marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants' Exhibit No. 873 for identification.

MR. WADE: Your Honor, this is the same document as Plaintiff's Exhibit No. 184 which is already in evidence.

MR. COOLEY: I'm losing track. Could I see 184 to make sure?

THE COURT: If it is, we don't need it twice.

MR. COOLEY: That is correct, Your Honor.
We will have to refer to that as Plaintiff's

Exhibit No. 188.

THE COURT: 873 is no longer a number. Leave that as an open number.

MR. COOLEY: Exhibit 184 --

THE COURT: Just a second. I'm going to mark a void through 183 so there's no confusion -- or 873, excuse me. It's the same as what, 184?

MR. WADE: Yes, sir.

MR. COOLEY: Plaintiff's Exhibit No. 184.

THE COURT: Okay. Defendants' 874 will be the next number to be used. This is voided. 873 is voided.

BY MR. COOLEY: (Continuing)

Q. Plaintiff's Exhibit No. 184 is Mary Sue Hubbard's response, is it not, to your letter to her of February 5, 1980?

A. Yes.

Q. Now, in this letter she says -- Page 2 -- "It sounds as though you are setting this up well. And all I ask is that the line be smooth for checking of data and that there be no Hill 10s, or last-minute emergencies, and data gathering." What is a Hill 10?

A. Hill 10 is a term used by L. Ron Hubbard. He said that it was a military term meaning that Hill 10 had to be taken. And it refers to in fact a last-minute emergency which would involve a great deal of time and stress and work at the last moment. The object was to plan things so that they went smoothly and were well organized so that no Hill 10, no last-minute emergencies occurred.

Q. Now, you have testified, sir, that after you left the Church -- you have testified to all manner of things the Church did against you. And I wish to ask you whether you took any retaliatory action against the Church.

A. Only, I believe, in that after they sued me, I filed a counterclaim against them.

Q. That's your $60-million claim?

A. That's correct.

Q. Did you do anything else against the Church?

A. Perhaps they construe it as against them. I have -- after the attacks began, I made a conscious decision to talk to the press about what had been going on, about what I had found in the Organization, because I felt that that was a way in which I could do something to protect my wife and my family and myself. So I did speak to the Press.

I did an interview on 20/20, and I was interviewed another time on national network television news, and I have -- whenever they have approached me, in most cases, I have been willing to talk to the Press. The Organization construes that as an attack on them, and so be it. My object has only been to make known whatever truth I came across within the

Organization and to perhaps protect everyone by getting out, in the open, what I know about the Organization.

Q. Aside from maintaining a high visibility, press relations and the like, and asserting a four-count claim for sixty million dollars, have you taken any other actions against the Church?

A. I have agreed to testify here.

Q. You have testified over fifty times, haven't you, in one form or another?

A. No.

Q. How many times have you testified on depositions?

A. The organization has taken my deposition, I believe, sixteen or seventeen days. I was, in my own defense case, I was on the stand for ten or eleven days. I testified in a trial, custody case in London, England.

Q. Did you testify in a probate case?

A. I had my deposition taken in the probate case.

Q. Have you given affidavits to Michael Flynn in other cases?

A. Yes, I have. I have given affidavits.

Q. Name the cases.

A. Tonja Burden v. Scientology, it could be also vs. Hubbard. McLean vs. Scientology. Van Shake -- Lavinda Van Shake vs. Scientology. I believe in a Michael Flynn defense action in Los Angeles, he was sued. In this case, I gave them an affidavit. There may be more.

Q. Burden, McLean and Van Shake are all Flynn clients, aren't they?

A. I believe so, yes.

Q. Are you through?

A. There may be more, but those are the ones that I recall at the moment.

Q. Have you given an affidavit in the Garrison case? Not Omar Garrison, but the Garrison case in Boston?

A. Could be. I don't recall, but it's very likely.

Q. How about Donald Bare?

A. The same is true. I believe that these are similar -- the similar affidavit was simply resigned with various different captions on it, the same material.

Q. Same statements in the affidavit, just a different case?

A. Roughly. I can't say for sure, but the -- I mean my particular life in the organization is what it is and it perhaps gets restated in different ways, but it's generally the same material and the same things are in issue.

Q. How about the Boston state case, did you give an affidavit there?

A. I'm not sure what the Boston state case is.

Q. You never heard of that?

A. I'm not sure. I may have. It was never stated to me as the Boston state case. That is the first time I have heard that term used.

Q. How about Paulette Cooper's case?

A. I had my deposition taken for a couple of days in Cooper, and it may be again that an affidavit was used in that case.

Q. Each time your deposition was taken by the defendant Church, isn't it because you were identified as a witness for the plaintiff?

A. The first time my deposition was taken, I was the defendant, and the organization --

Q. Aside from your own case, sir.

A. Which case are you referring to now?

Q. I'm referring to every case you have given an affidavit in or given a deposition in. In each of those cases, other than your own, where it was obvious, you were identified as a person who was going to be a witness for the plaintiff; isn't that so?

A. That could be.

Q. And you fully intend to be a witness in all those cases, don't you?

A. I don't know. I am willing to get up here and answer the questions and do what I can. I don't know if I'll be called, but those cases that I have mentioned, those that have not run to completion so far, I would be willing to testify in.

Q. That's how you make your living; isn't it, sir?

A. Mr. Cooley --

Q. Have you ever testified that that's how you make your living?

A. No, I haven't. What I said, Mr. Cooley, was that your client has taken my deposition a great number of times. I said the other day when they took my deposition again, that it was currently my only source of income and they were kind enough to give me a check for thirty dollars. And that happens to be the case right now. And if you call thirty dollars how I earn my living -- however, I said this because I had a great deal of difficulty even getting witness fees out of the organization. In fact, they still owe me for one deposition.

Q. How have you been supporting yourself, sir?

A. I worked for two years after I got out of the organization in a law firm in Orange County, and that's it.

Q. That's as a paralegal?

A. That's correct.

Q. Did that law firm have any cases against the Church of Scientology?

A. No.

Q. When did you -- what date did you stop working there?

A. March 2, 1984, then there was the trial, Armstrong trial. And then in approximately September, I began getting unemployment insurance. And that continued until the beginning of this year. Currently I am not and currently I do not have a job, and that's it.

Q. Have you been working as a paralegal at all in the state of Oregon?

A. By which you mean have I been paid anything?

Q. First of all, have you been working as a paralegal?

A. You have to define what duties constitutes paralegal duties. I don't consider my being here being a paralegal. In the firm of Rankin, McMurry, when I am asked a question, I generally answer it. I have not prepared any documents other than an affidavit, which was filed in this case. Perhaps you could construe what I do to assist in this case as paralegal work, but I have not been paid and don't expect to be paid.

Q. Do you construe it as paralegal work?

A. Mr. Cooley.

Q. No, do you construe it as paralegal work? Please answer the question, sir.

MR. WADE: Your Honor. Objection. Badgering the witness.

THE COURT: Calm down Mr. Cooley.

THE WITNESS: I would say that --

THE COURT: Sustained.

THE WITNESS: I would say that I certainly don't divorce myself from whatever expertise I gained as a paralegal in doing the work that I do or talking in the way that I talk. However, I don't consider that I'm a paralegal employed by that firm.

BY MR. COOLEY: (Continuing)

Q. Did you ever -- did your lawyer, in your behalf, ever make a representation to a court in California that you are a paralegal at Mr. McMurry's law firm in order to get you off of a deposition that was scheduled down there, or don't you know the answer to that one?

A. No, I don't. I know that I told her that I would be up here during the pendency of this trial and that I would be helping out. I did not -- what she told me was, they sought to take my deposition. I said, "Well, I don't really want to have to during this trial os Angeles for another deposition." And she said -- I said that I'm helping out here and I don't want to put these people through the expense of flying me down and back and forth. And she agreed and she said that what she would try and do is have them put off the deposition until after this case is over. That's it.

Q. You and the witnesses that have come here -- Mr. Franks, Mr. Walters, Mr. Homer Schomer -- have lived together in the same residence while they were here; isn't that so?

A. Yes.

Q. But you haven't discussed the case in any way, as I understand your testimony?

A. I have known very little of what's going on, so -- how is it possible? You know, Homer Schomer comes out here and I say, "How did it go? It went okay. I survived." You know, there's been very little discussion.

Q. Has there been any about the case or the testimony?

A. Not about testimony.

Q. So that you spent how many days with Mr. Franks?

A. Five.

Q. Incidentally, whose home are you living in?

A. Home of Mr. McMurry.

Q. During those five days, you didn't discuss with Mr. Franks any of his testimony; right?

A. You know, if there was anything, it was minimal. It meant nothing to me. I certainly gained a lot more from the newspaper than I gained from Mr. Franks. I watched the newspaper real close.

Q. Did Mr. Franks tell you anything about his testimony?

A. Other than the fact that he broke down on the stand, that's all that comes to mind.

Q. What about Mr. Walters, did he tell you anything?

A. He also broke down on the stand.

Q. He told you that?

A. Yes.

Q. That's all he told you?

A. If he said anything else, it was meaningless. I know their stories.

Q. The question is, did he tell you anything about his testimony?

A. Mr. Cooley, there's nothing that comes to mind.

Q. What about Mr. Schomer, did he tell you anything about his testimony. He certainly didn't breakdown.

A. I recall him asking something like -- and I just happened to be there -- you know, was it okay that he had said something about a couple of exhibits, some comment he had made about a couple of exhibits.

Q. That's all you remember?

A. That's about it.

Q. All right. Now, were there any other actions that you took or proposed against Scientology or the Church of Scientology?

A. I undoubtedly have proposed a lot of things. I have -- Virtually anyone who talks to me I will give a proposal about, if I'm asked, and a lot of people have talked to me. The thrust of whatever I say has been that sooner or later the reign of terror will have to quit; sooner or later there has to be a shift within the organization, a philosophic shift. It cannot go on; they cannot continue in the way they continue. And anyone can ask me and I would say the same thing.

They have sent around people to see me and I have said to them that they have tried to bully me out of proceeding in testifying and talking to people, and I have said that I won't be bullied and I'll continue to talk and the thing's going to have to run its course.

And sooner or later, I have said all along, if the organization really wants to settle this whole thing and be decent and honest, I'll talk to them. But until such time, I'll just continue. And that's what I have said to virtually everyone.

Q. Since you left the Church in December of 1981, have you ever participated in or proposed a covert operation against the Church?

A. No. People have talked to me about this sort of thing and I have said that I have survived this far by being honest about the whole thing and that I did not wish to be inveigled in or involved in anything like that.

Q. So your answer is no?

A. That's correct.

Q. What people have talked to you about a covert operation against the Church?

MR. WADE: Your Honor. With the exception to people who are parties in this case, I object on the grounds of relevancy.

THE COURT: That's a tough one.

MR. COOLEY: I will tie this up, Your Honor, I give you my word on that.

THE COURT: Well, assume you do, we will still have a question of relevancy. Even assuming that you tie it up.

Please remain seated.

(Following proceeding was held in chambers.)

THE COURT: The only possibility I see is to show any bias on his part.

MR. COOLEY: That's exactly what I'm going to do. I have very solid evidence of what I'm talking about.

THE COURT: I mean that's the only basis that would come to mind.

MR. COOLEY: It now will come in as a prior inconsistent statement, because he has now given a flat answer of no to the question.

MR. McMURRY: You can't impeach a witness, Your Honor, on bad acts or specific bad acts or conduct; it's not permitted.

THE COURT: As I understand, it that's not what it's for.

MR. McMURRY: It's attacking his credibility.

THE COURT: No, it's to show he's biased

against the Church.

MR. COOLEY: Exactly right. Biased and prior inconsistent statement now will be the basis for this evidence.

MR. WADE: The question is covert operations against the Church; right?

MR. COOLEY: That's right.

MR. WADE: If he had any covert operations against the Church. You asked him the question, he explains people talk to him about it. He told them he was not going to be involved in it.

THE COURT: I heard what he said.

MR. COOLEY: He started to say no. He said people have talked to me about it and I told them I don't want to get involved in anything like that.

THE COURT: He said, I survived, so -- If you are going to say what he said, say what he said.

MR. COOLEY: You've got it right, too, I'll tell you. You have it very right.

THE COURT: He survived this long without doing that --

MR. WADE: So unless it's with respect to somebody who was a party in this case, I still don't see the relevancy of it. It's almost the kind of thing of asking somebody a line of questions or something we are seeing in defendants' case. We ask a line of questions.

THE COURT: If I'm reading this right, he's going to come up with somebody along the line that Armstrong was going to get into a covert operation with of some sort. That's a guess.

MR. COOLEY: There will be evidence of that, exactly.

MR. McMURRY: Your Honor, impeachment for bias, impeachment for credibility is not available to cross-examination when it doesn't go to the nature of his truthfulness in his testimony here. I mean, that's just Horne book 405.

THE COURT: My understanding of the law is you can impeach for bias at any time.

MR. COOLEY: That's the way I read the rule, Your Honor.

MR. McMURRY: There are ways to do it, but you cannot be impeached on a specific bad act.

THE COURT: That's character, that's a different rule.

MR. COOLEY: That's right. I am not going into the questions of his general character for truth and veracity.

THE COURT: That's character. Truth and

veracity are character in certain instances. Bad acts are how you get those in. I thought that I know the Oregon law on bias, and that's a wide-open rule in this state; that you can always show it. Unfortunately we are going to open the door to many more days of trial.

MR. COOLEY: Yes, indeed.

THE COURT: That's my only objection here to this whole --

MR. McMURRY: I just want you to look at 608, Subsection 2, Your Honor. I think it's absolutely --

THE COURT: I know. This is what I was talking about: evidence of the character and conduct of the witness -- you know, showing that he's not credible because of prior and specific bad acts. But I think if you look at the section -- you guys have --

MR. COOLEY: 609.1. In fact, the legislature liberalized this rule in Oregon.

THE COURT: It may be evidence by family or by particular conduct or statement of the witness.

MR. WADE: Your Honor, I think that the basic reason for my objection is because what seems to be happening on the cross-examination, as we get into collateral matters which are brought out --

THE COURT: Well, Mr. Peterson accused this Court of losing control of this case yesterday, and I told him that he wasn't here to hear how it happens in many instances around here.

MR. WADE: When collateral matter is interjected in the questioning by defense counsel, they have to basically stay, stand with the answer to the question. They are not allowed, then, to impeach on such collateral matter.

THE COURT: He said no. That's his answer.

MR. COOLEY: That's his answer.

MR. WADE: Then that's the answer they have to take. Collateral matter, then that is the answer they have to take and they cannot continue cross-examining on it.

THE COURT: But Ron, at that point we rule upon that at such time as he brings in that evidence. Then you can raise that objection for the record that it's a collateral matter. But the posture which I'm ruling on right now is the specific questions asked of him.

MR. COOLEY: That's right.

THE COURT: He said no to your question. Well, that's the end of that. He said no. Now, you better --

MR. COOLEY: He said he has not engaged in any covert activity.

THE COURT: That's what he said.

MR. COOLEY: But he has.

THE COURT: His answer right now is no.

MR. COOLEY: Oing to deal any further with him on that.

THE COURT: If you want to raise another objection at the proper time, make your record, absolutely. Okay.

MR. COOLEY: The question, though we are now dealing with that was objected to is, who are the people who have approached him that he has refused to engage in covert activities with. That's the question and there is a pending objection to that.

MR. WADE: With respect to the parties to this case, it may well be relevant. With respect to anyone else, it is irrelevant.

THE COURT: There's also another basis upon -- you know, you are talking covertic activities which may be illegal activities, which may be within a privilege that he can assert, as well, if he cares to do that; and he should be told of that.

MR. MANION: When the time comes.

MR. COOLEY: I will be --

THE COURT: I mean right now. I mean the answer when you asked him about names of people who have approached him regarding covert activities. Of course, I don't know whether that privilege extends to names of other people.

MR. McMURRY: It would, Your Honor, but --

THE COURT: I think he has a privilege not to answer that question, Earl.

MR. McMURRY: It's clearly not relevant, Your Honor. What people have heard in their lifetime and different proposals that may have been put to them, it goes so far extrinsicly to extensive hearsay evidence, there is no end to it.

THE COURT: That one may go a little too far in that it could wind up with a lot of people who have -- it could be a wide range of people and nothing has ever happened with any of them.

MR. McMURRY: Exactly.

THE COURT: That one may be a little too far, that specific question. Those names, yeah, I'll sustain the objection to the names. As far as the other to show his bias, you are okay on that.

MR. COOLEY: Can we take a morning recess? It's eleven o'clock.

(Following proceedings were held in the presence of the jury.)

THE COURT: We are all walking out here so I can tell you, you can go and take your morning recess.

(Jury was excused.)

THE COURT: Let's make it short; ten minutes.

(Court recessed at 10:58 a.m. and reconvened at 11:12 a.m.)

THE COURT: Ready to go?

MR. COOLEY: Yes, Your Honor.

THE COURT: Get the jury.

(Following proceedings held in the presence of the jury.)

THE COURT: Mr. Cooley.

BY MR. COOLEY: (Continuing)

Q. In February of 1985, this year, was your occupation that of expert witness?

A. Because Judge Breckenridge had said from the bench that I was an expert subject of L. Ron Hubbard and Scientology, I requested of an attorney for the organization expert witness fees. They refused to pay it, but I at least did make the demand. Because on the subject of L. Ron Hubbard and his misrepresentations, which is what I testify about, I was an expert. So I never got any money from it, but I did make the demand.

Q. In February of 1985, was your current occupation then expert witness for Michael Flynn?

A. I think I have explained everything there is about my being an expert witness. The judge in my case took usual notice of the fact that I was an expert and I made that demand. However, as for construing that it was my profession, it perhaps ought to have been, but I have not been able to make any money at it to date.

Q. Do you remember giving your deposition in the case of Church of Scientology of California vs. Michael Flynn, United States District Court, Central District of California, Docket Number 83 5052 R, on Friday, February 8, 1985?

A. Yes.

Q. And do you, at page fifteen, recall being asked these questions:

"Q. What is your current occupation?

"A. I'm an expert witness

"Q. And do you perform expert witness services for Mr. Flynn?

"A. Yes.

Do you remember giving those answers and being asked those questions?

A. Yes. And I also recall not being paid by the organization and their refusal to acknowledge me as an expert witness. So I guess my occupation was shortlived.

Q. How about Mr. Flynn, did he pay you?

A. Mr. Flynn has never paid me.

Q. You were asked what is your current occupation and you answered I'm an expert witness.

MR. WADE: Your Honor. Objection, improper impeachment. This is exactly what the witness has testified to.

THE COURT: Is this another question?

MR. COOLEY: No, Your Honor. I'm going to ask another question based upon that testimony.

THE COURT: All right. Let's hear it.

BY MR. COOLEY: (Continuing)

Q. And when you said do you perform expert witness services for Mr. Flynn and the answer was yes. My question is are you paid for those services, by Mr. Flynn?

A. And I believe I went on to say in that same deposition that --

Q. My question is, are you paid for those services by Mr. Flynn?

A. I was answering that. I went on to say in that deposition that I occasionally do pro bono work, which was how I perform my expert witness duties for Mr. Flynn and for Mrs. Titchbourne.

Q. So your answer is you are not compensated?

A. That's correct. That's what I have said.

(Defendants' Exhibit 873 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants' Exhibit 873 for identification and I ask you whether that is a document that you signed on or about January 20, 1981?

A. Yes.

Q. Was it signed in behalf of the Church by Laurel Sullivan on that same date?

A. Yes.

Q. Notarized by whom?

A. It wasn't notarized.

MR. WADE: Excuse me. We have a matter of the Court based on the failure to produce. I would like to be heard on this, please.

THE COURT: Very well. Excuse us.

(Following proceedings held in chambers.)

MR. WADE: Your Honor, in addition to our request for production of documents, Mr. Armstrong made a request and a demand during his deposition taken on February 27, 1985, of his documents which he has a right to receive under the Oregon Rules of Civil Procedure, any documentation signed by him, any other documentation concerning him. Absolutely nothing has been produced. A witness has a right to demand documentation.

THE COURT: I know the rule.

MR. RUNSTEIN: What's the rule? I haven't heard a thing about it. I didn't attend the deposition.

MR. COOLEY: Mr. Manion took the deposition, Your Honor.

MR. WADE: Lois Beran.

MR. RUNSTEIN: What's the rule?

THE COURT: The rule is they have to produce any documents signed by the person.

MR. RUNSTEIN: Your Honor, it was an oversight to the extent it's happened. I'll have to check the rule to see if it applies to witness.

THE COURT: It does.

MR. RUNSTEIN: My suggestion would be that this witness is going to be on at least a day, day and a half, two days, we will give it to him. There is no prejudice or harm. The deposition was taken February 27, 1985 at their convenience. It was within a week of trial starting. There's been no followup request, to my knowledge. As I say, there were an awful lot of things happening. We were in court those days. I think that's why Miss Beran of my office, who has minimal involvement, was taking that, and it is certainly not an intentional -- it's more of a --

THE COURT: The problem is now, what other documents were not produced?

MR. WADE: Also, for the record, I would like to state that Mr. Armstrong has a request for production, he's had a longstanding request for production in his case in California and the documents have also not been produced there.

MR. RUNSTEIN: I have less knowledge of that than this one. I think this one the request was of Miss Beran.

MR. COOLEY: May I see what you are referring to there?

MR. WADE: Sure.

MR. RUNSTEIN: What's the statute number again?

MR. WADE: I can't remember the statute number. It's ORCP.

THE COURT: It's rule of civil procedure.

MR. WADE: Yeah.

THE COURT: Better get on to something else in the mean time. You can take this up over lunch.

(Following proceedings held in the presence of the jury.)

BY MR. COOLEY: (Continuing)

Q. Mr. Armstrong, did Mr. Hubbard pay your salary directly?

A. No.

Q. Did you have a direct contract with Mr. Hubbard?

A. I imagine that the biography -- everything surrounding the biography project formed a contract. My working on it and the contract worked out with Mr. Hubbard's attorney, which ultimately involved my working on the biography with Mr. Garrison, formed a contract.

Q. You had a contract signed between you and Mr. Hubbard?

A. Again, just the petition and his response and the part that I was to play in the biography.

Q. Did you have a contract with the Church ?

A. If you call this --

THE COURT: Wait. That's not an exhibit.

BY MR. COOLEY: (Continuing)

Q. The question is, did you have a contract with the Church?

A. In a sense, yes.

Q. For how long was that contract?

A. Five years.

Q. Did you have it for a shorter period of time?

A. Well, I didn't know at the time of signing this, so --

THE COURT: Just a second, now. That's not an exhibit so please stop referring to that.

THE WITNESS: Okay, Your Honor.

MR. WADE: Your Honor, we will also object to the question that's being asked concerning the document.

MR. COOLEY: I'm not asking questions concerning the document.

THE COURT: He's asking a question concerning the document. I have ruled on the document.

BY MR. COOLEY: (Continuing)

Q. A shorter contract than five years?

A. In retrospect, I wish it could have been a couple of minutes.

Q. I mean at the time.

A. At the time, I didn't know.

Q. Did you not prefer a contract for two and a half years?

A. Again, at the time I didn't know.

Q. You didn't know what?

A. I already had a contract for a billion years.

Q. That was as a member of the Sea Org; right? Were you a member of the Sea Organization?

A. That's correct. And I knew that this was being done for certain legal reasons; that is, they were forming up -- they were having people sign contracts at that late date for legal reasons. I had not, at that time, been briefed that Sea Org members were supposed to circle five years instead of two and a half years, and I did not think and I did not know at that time.

Q. You didn't know that Sea Org members were supposed to sign on for a five-year period?

A. That's correct. I was told sometime later.

Q. By May of 1980, how many inconsistencies between materials that you had and previously published biographical material had you found?

A. The only one that I recall at that point was the inconsistency regarding "Dive Bomber". I mentioned that the other day. Whether or not Hubbard had, in fact, written the screen play "Dive Bomber" and whether he had received ten thousand dollars which he had held during the war and kept in a safety-deposit box.

Q. You had not uncovered the situation with respect to George Washington University by then?

A. I don't know at what time that came. As I say, by the time I provided the document to Omar Garrison, and this was either in 1980 or early 1981, I knew of it at that time.

I can't tell you at what point, during that year, I came across that particular misrepresentation.

Q. Around May of 1980, had you devised the approach that you wanted to employ as promoting L. Ron Hubbard as a great patriot?

A. I don't recall that specific thing being addressed at that time and I don't know if I ever made a decision or -- on what approach would be taken in that regard.

(Defendants' Exhibit 874 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what's been marked as 874 for identification and I ask you whether that's a letter that you wrote to Laurel Sullivan.

A. Yes.

MR. WADE: Your Honor, I object. This is another document not produced.

MR. COOLEY: Do you have that among your personal files?

THE COURT: I'm going to rule on that one first. Sustained.

BY MR. COOLEY: (Continuing)

Q. Do you have that document among your personal files, sir?

MR. WADE: Objection, Your Honor; irrelevant.

THE COURT: That's not quite the same objection, Mr. Wade.

MR. WADE: Not produced, Your Honor.

THE COURT: No reference to this exhibit until such time you straighten that out, Mr. Runstein, as I indicated to you over the lunch hour. Any exhibits that fall within the purview of that discovery rule are not going to be admitted until you give me the information I requested, Mr. Runstein. So go on to another subject.

MR. COOLEY: Very well, Your Honor.

BY MR. COOLEY: (Continuing)

Q. Did you ever indicate to Laurel Sullivan that you didn't think that it was necessarily improper even to lie in the biography?

A. I may have said what I said in various communications as I began to come across the misrepresentations, and I don't know if it was specifically to Laurel, because Laurel had attacked me for even bringing up the representations initially. But there was a point at which I felt that as long as what we were seeing was opinion and it could be observed as opinion, then there was a place for hype. But where we were saying it was fact and it was, in fact, a lie, then that -- that to me was unacceptable. So I recognized that -- it's okay for the Organization to say that, you know, L. Ron

Hubbard, is the greatest thing since sliced meat, but it is not okay to say that he's an atomic physicist when he isn't.

(Defendants' Exhibit No. 875 marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what's been marked as Defendants' Exhibit No. 875 for identification, and I ask you whether this document was Exhibit 111 in your case in California.

A. Yes.

Q. Is that a letter you wrote to Laurel Sullivan on June 18, 1981?

A. It went to a Sue Anderson.

MR. WADE: You Honor, we object to this on two grounds: One is the failure to produce, which we've already talked about; second, this is an Armstrong document. And these documents were not produced, either.

MR. COOLEY: This is an exhibit in the Armstrong case in Los Angeles, Your Honor. It is not an Armstrong document.

THE COURT: I'm going to let you go to lunch now. We can't seem to resolve an ongoing problem. Be back at 1:30. Please remember my cautionary instructions.

(Jury excused. Following proceedings

held out of presence of the jury.)

THE COURT: Go ahead.

MR. WADE: With respect to this, the Court is well aware of the fight -- not the fight, excuse me -- of the arguments held before this Court and the efforts made by plaintiff to obtain Armstrong documents. This is an Armstrong exhibit. It was not produced by the Church. And now, after, in effect, keeping us from presenting Armstrong documents, defendants are attempting to offer as evidence certain Armstrong documents. And we object to that, Your Honor.

MR. COOLEY: I'm not aware that this was an Armstrong document, indeed. There is a document that has been placed in evidence here which is Exhibit 187 which contains the material that is in 111, and more. This is just an earlier version that I wish to examine the witness on, and my understanding is that it is one of -- it is a document that he has seen before and that is signed by him and it does not -- it contains much of the same material that is already in Exhibit 187, except 187 goes further.

MR. WADE: Your Honor, Mr. Armstrong of course has seen all the documents which are what we would call the Armstrong documents. It was not produced. In fact, I'm somewhat surprised at this point because specifically, the Court ordered the production of all biographies of Mr. Hubbard, and we received several of those. And the second part of the exhibit is a biography of Mr. Hubbard we did not receive. So with respect to the limited number of documents we did receive, this is not one of them.

THE COURT: Mr. Runstein, I thought we did this painstakingly.

MR. RUNSTEIN: Your Honor, my understanding of Armstrong's documents are documents that he took from the Church. I don't believe this is a document that he took from the Church. Nderstand Armstrong documents to be. I can't answer that right now until I talk with my clients and look at the rule. As you know, I was unaware of the request until a few moments ago. Obviously Counsel was too, because it hadn't been raised earlier. Your Honor, I believe we have completely complied to the best of my knowledge where the --

THE COURT: I'm not going to accept "to the best of your knowledge." We are now in trial. It's matters that were ordered produced; if they were not produced, they are not coming in now at trial.

MR. COOLEY: This is not in response for a motion, Your Honor. You must understand that the deposition --

THE COURT: I'm only going to listen to one of you, Mr. Cooley.

MR. COOLEY: I just wanted to correct a misunderstanding I think the Court has.

THE COURT: I think he is more familiar with the --

MR. COOLEY: Not on this, he isn't. Manion took this deposition.

THE COURT: I'm talking about the Armstrong documents and my order.

MR. COOLEY: This is not an Armstrong document.

THE COURT: They say it is.

MR. COOLEY: This a plaintiff's exhibit put in by the Church in the litigation against Mr. Armstrong. The Armstrong documents are documents that he took. The Church marked this as an exhibit, in California. That's all I'm trying to point out. It's Plaintiff's Exhibit No. 111.

THE COURT: I understand what it is.

MR. McMURRY: Your Honor, may I be heard on this matter?

THE COURT: Then, Mr. Wade, you're not going to be heard anymore.

MR. WADE: Your Honor, with respect to that it's a document prepared by Mr. Armstrong when he was in the Church, whether it was put in by the plaintiff or defendants, I take it the reply would be any of the documents which are exhibits in the Armstrong case which were used by the Church of Scientology of California, can be used in this case, but that none of the documents which Mr. Armstrong used in defense could be used in this case. I mean, that is so unfair on its face, it is incredible.

The documents were to be produced. We have hearing after hearing heard that they would not be produced, they were under seal in various courts. And now for the defendants to attempt to use exhibits in the Armstrong case without producing them, is absolutely intolerable.

THE COURT: This is the very matter I was concerned with right at the very beginning, that unless they were all produced, they were -- there was going to be an attempt to produce them here at trial, Mr. Runstein, and that appears to me what is being done.

MR. RUNSTEIN: Your Honor, I think he Mr.

Cooley is making the argument --

THE COURT: Mr. Cooley didn't argue all the days of motions that we had here.

MR. RUNSTEIN: But, Your Honor, we only were required to produce documents requested. Bl file for Mr. Armstrong, it was produced. Armstrong documents, and as that term is used, those are documents -- the hundred thousand or whatever that Mr. Armstrong stole that were sealed, and that other request was one that occurred within a week of trial which I was unfamiliar with. I have to read the statute. I think the sanction to say they can't be used at all in this trial is the extreme sanction. The client, as you know, under great time pressures, under time pressures of arguing the many legal matters, produced literally hundreds of thousands of documents. Now, if they had asked. They never asked for all correspondence or all things produced by Gerald Armstrong. That simply was not asked for.

What they asked for and what they got was Bl files. What we had arguments over were Armstrong documents. The fact that the witness, in a deposition, taken at the time they picked, six days before trialand said I want copies of all the documents you've got. I didn't know about it until

I walked in there. It was true it was covered by somebody from my office and we have to bear the responsibility, whatever that is.

But, you know, in trials, where a document is inadvertently -- and I use that word because I'm comfortable that that is the reason, to the extent any of these documents were not produced, they have only been derived very recently for this trial, those documents can be, to the extent the statute requires, produced immediately. But these are not the Armstrong documents. They are not B1 documents and to the extent they are documents requested within that deposition, I was unaware of it. There's been no followup.

There was no suggestion of it when the witness was on the stand earlier. And it isn't a situation -- but that came up after the last break. It caught us, frankly, relatively unprepared, which is why I have asked for the noon hour to go back and look at the rule and look at the deposition. I haven't even reviewed the deposition concerning this because I was totally unaware of it.

The witness has been here since February 28. They knew he was going to go on the witness stand. There's no question he has written correspondence over the years, and that was the first request for it, was on February 28, with absolutely no followup. They simply may have wanted all correspondence from Gerald Armstrong, but it was never requested nor ordered to be produced until the witness requested it himself, apparently. And I say apparently at the February 28 deposition.

I can't tell you if this biography was produced before or not or we were aware of it or not. They indicate it wasn't. I don't know until I go back and look. You have to remember, again, there were hundreds of thousands of documents and that's why I say I have to check, because we have to look to see if that's accurate or not. I simply am not comfortable acknowledging that it was not produced or that we didn't produce it. I don't have the information at hand. But the items requested to be produced have been produced and that's my understanding.

THE COURT: You better check it out pretty thoroughly.

Now, Mr. Cooley, I will hear your argument with reference to this specific document.

Then I will hear you, Mr. McMurry.

MR. COOLEY: My understanding the Armstrong documents are in the category of those documents that have been treated in a certain way by Judge Breckenridge and certain documents weren't. My understanding is this Exhibit 111 was not. I have no desire to go into the so-called Armstrong documents. I simply did not and do not understand this to be one. If it is, that answers the question. I'm not going to pursue it. But I didn't think it was and that ought to be a matter --

THE COURT: I'm not criticizing you, Mr. Cooley. It's just a question of what you understand these to be or not.

MR. COOLEY: If it is, that answers it. It's over with. That leaves us with this other issue that we ought to address. The issue of producing, and I can do it. I have just got now to pull out every document that -- every piece of paper that I intend to use with respect to this witness, and furnish it to Mr. Wade, and I could do that. The only thing I ask the Court to bear in mind that that request was made in the midst of trial and the deposition was taken after trial commenced. It may result in an inconvenience at some point in having to, when I get so I have to use the documents and don't have other lines of interrogation, I may have to adjourn my cross-examination of the witness, if the Court would feel that the counsel of the plaintiff needs additional time to examine the documents. But I have no difficulty putting together a collection of all those documents that I intend to use and furnishing them, if that's what the Court says is required under -- the pursuant to the request made by the witness at that deposition.

THE COURT: You might be doing that all day Friday.

MR. COOLEY: Well, I'm going to stay hear, Judge. I'm not going home for Easter. I can do that.

THE COURT: Go ahead, Mr. McMurry.

MR. McMURRY: I'm positive this record will show -- I am absolutely positive that this record will show that we went down through every order for production. We went down through specific items for production. We went down through specific items with respect to LRH control, LRH service record, LRH biographies, LRH educational records. Repeatedly. Ms. Roberts, and subsequently Mr. John Peterson of Los Angeles, came to this Court and advised this Court repeatedly: number one, that the Armstrong documents were under seal by order of Judge

Breckenridge. That was looked into by this Court on conference call with Judge Breckenridge and found to be false. Then the position was that certain parishioners of the Church of Scientology of California, Roes, had filed suit and that matter was on appeal and, therefore, there had been an additional stay sealing and controlling those documents. Judge Breckenridge stated on this record that but for the Church of Scientology of California, he would send air express all of the Armstrong documents to this Court. We have begged, we have argued, we have pleaded, and this Court has in its possession today Naval records and educational records and private, quote, private end quote, documents of L. Ron Hubbard, all of which came to the Court under seal by the defendant Church of Scientology of California.

THE COURT: Not from Judge Breckenridge.

MR. McMURRY: Not from Judge Breckenridge. These were other documents that came in. All relevant and all subject to discovery. Now we are offered the opportunity of reviewing such documents as Mr. Cooley plans on using from those two caches of documents and are still prevented from getting the documents that were ordered produced but for the

Roe case -- Roe cases, and but for this Court's order that certain matters are private.

Now, this witness has a right to the documents upon which he relies for the two purposes upon which he is on this stand. Number one, the lies and deceit about L. Ron Hubbard. Number two, the control that L. Ron Hubbard exerts up and down and through every pore and cranny of this -- of these several sham corporations. Now, it will not do for Mr. Cooley or any of the other defendants' lawyer to say, "Well, we will produce those documents that we think we may use."

We are entitled to them all. We are entitled absolutely to them all. And there can't be any more. We will use a sword and we will also use a shield. Those documents are either admissible every one of them or they are inadmissible. And it's unfair and clearly in abuse of this Court's orders and this Court's jurisdiction to now do the hunt-and-peck system through the Armstrong documents for purposes of trial and say, "Now we think we will let you have some of them." We want them all. Every one of them. We renew our motion.

MR. COOLEY: These are not the Armstrong documents, Judge. That's what I'm trying to say. I don't know where Mr. McMurry gets the idea that they are the Armstrong documents.

MR. McMURRY: If they are not --

MR. COOLEY: I ask the Court -- the Court has under seal a number of documents. Mr. McMurry has just referred --

THE COURT: I don't have anything like what you are talking about under seal.

MR. COOLEY: That's the point.

THE COURT: I know that.

MR. COOLEY: That is not an Armstrong document. He makes a big speech about something that's not an issue here.

THE COURT: But they did request at some point, I remember this distinctly, all biographical summaries; they requested those. Now, we are turning up with one that was never produced.

MR. RUNSTEIN: That, I don't know, Your Honor. I want to check that.

MR. COOLEY: They say it wasn't produced. We will check it.

THE COURT: We will do that over the lunch hour. You are going to check it. Because with reference to anything that is going to be -- with reference to all Armstrong documents, these matters that were requested, Mr. McMurry is right, you just can't pick and choose documents. What bothers me all the weeks and months spent on me sitting here listening to discovery motions and hearing time after time, we don't have them. There are no such things. And now they are showing up.

MR. COOLEY: This one was an exhibit.

THE COURT: This one, I can tell. Possibly see it was an exhibit in another trial, but we are into the area, I think, and I could be wrong on this, but I have a strange feeling I'm going to be looking at a lot of documents that are going to be coming in -- and I could be wrong, but I have had two already that were not produced. This is the third one we have been arguing with in a short span of a half hour.

MR. COOLEY: But the nonproduction alleged there is a nonproduction --

THE COURT: On a deposition, I understand the difference.

MR. COOLEY: Not a lack of compliance with previous Court orders.

THE COURT: But certainly this last one will be a nonproduction.

MR. COOLEY: If it wasn't produced. The bio part of it, the thing was an open unsealed exhibit in the Armstrong case. That document isn't under seal.

THE COURT: I don't think that document is either. My point is the biographies were supposed to have been furnished.

MR. COOLEY: It was attached to an exhibit, Your Honor.

THE COURT: That wasn't my order that they go down to California and look through the exhibits in the California court. My order was that Mr. Runstein produce it.

MR. COOLEY: WeLL, we will just have to check it out.

THE COURT: All right. I want two things. I want to find out precisely with reference to Mr. Armstrong, Mr. Wade, what the orders show are to be produced. I want you to be able to state with great particularity the deposition section under the rules of civil procedure and the request of a witness to have the documents.

Mr. Runstein, you be prepared to argue your position regarding that. And the failure to produce them. So you have two sections. Two things we are going to argue about here. The lack of production on biographical mater, that's all I'm faced with at this moment. And secondly, the lack of production of things for Mr. Armstrong pursuant to his request at deposition.

MR. RUNSTEIN: Fine, Your Honor.

THE COURT: Any questions about what we are concerned with here?

MR. WADE: No.

MR. RUNSTEIN: You made it clear.

THE COURT: Okay.

THE WITNESS: Your Honor, I would like to say something, if I may.

THE COURT: With permission of counsel.

MR. WADE: Yes.

THE WITNESS: Mr. Runstein stated that I was a thief and that I had stolen these.

THE COURT: All right. That's a statement by Mr. Runstein.

THE WITNESS: It will show up on the record. And also, I was here when Mr. Peterson said the same thing, I heard Mr. Peterson say it a number of times the decision in my case is very clear, that I did not steal the documents. And I would request that the decision in my case be entered into the record, because that will show what the trier of fact in Los

Angeles, in fact, found as to what I did and why I did it.

THE COURT: That's up to the attorney. Unfortunately, Mr. Armstrong, I do not introduce -- or fortunately I ishould say in this case, I do not submit exhibits. I only make rulings.

THE WITNESS: I understand, Your Honor.

MR. RUNSTEIN: I might point out for, Your Honor, this is not in presence of the jury and we are all very familiar with the decision in your case, Mr. Armstrong.

THE COURT: Well, I'm not so sure I am.

MR. RUNSTEIN: It's been submitted, Your Honor, many, many times.

MR. WADE: Plaintiff will offer, as a Court Exhibit, a copy of the memorandum of decision in this case, Your Honor, at this time.

THE COURT: For me?

MR. WADE: Yes, Your Honor.

MR. RUNSTEIN: Again, we point out memorandum of intended decision. A word they omit.

THE COURT: Has there been a decision?

MR. WADE: Yes. It incorporated that decision and we can also get that for you, Your Honor.

THE WITNESS: It's identical, Your Honor.

THE COURT: The record should show he was not referred to as a thief in front of the jury. Those were statements made by Mr. Runstein and Mr. Peterson.

THE WITNESS: I understand, Your Honor. I just think they are out of line. If they know the decision, then they know that's not true.

THE COURT: Okay. Let me handle that, okay?

THE WITNESS: Okay, Your Honor.

THE COURT: All right.

MR. RUNSTEIN: 1:30, Your Honor?

THE COURT: 1:30.

MR. McMURRY: Lois, is that 210?

THE COURT: She hasn't marked it yet.

MR. COOLEY: It is being offered in evidence?

MR. RUNSTEIN: Court Exhibit. It is not going into evidence?

THE COURT: He offered it as a Court Exhibit.

MR. COOLEY: All right.

THE COURT: Which would be 252 for a number.

THE CLERK: I have a 210 and 252.

THE COURT: I was just going to the next available number which was 252. And that's a Court Exhibit.

Okay.

(Court recessed at 11:59 a.m.
Reconvened at 1:37 p.m.
Following proceedings held out of the presence of jury.)

MR. RUNSTEIN: Unsequentially, first the Armstrong correspondence, other than the biographical material.

THE COURT: Before you do that, Mr. Runstein, this last exhibit, Exhibit 252, mark it Court Exhibit.

MR. RUNSTEIN: First, Your Honor, starting with Defendants' Exhibits No. 873 and 874, and also 871. Then we will cover the final exhibit Exhibit No. 875.

Mr. Armstrong's deposition, I would like to give the Court the portion of it. The witness, but not his attorney, asked for all sorts of documents. His attorney in particular asked for certain documents that were attached as an exhibit to -- that were attached to Exhibit No. 13. The lawyer, for the defendants said -- let me just state it -- "I can't respond to those at this time, but we'll take them up at a later time."

Now, Mr. Wade -- quoting Wade and McMurry on law, as it is frequently indicated -- "If a witness asks for all exhibits at trial, the other side is immediately, without notice, without anything, required to give them or can't use exhibits at trial."

THE COURT: Why don't you calm down.

MR. RUNSTEIN: There's absolutely no such rule. It's been indicated to the jury time and time again, this defendant, who has produced well over a hundred thousand documents at great expense is once again not producing items ordered by the Court. Now, as a matter of fact, there's no rule which says a witness at a deposition can say, "Give me any documents you intend to use at trial." There is just no such rule.

Exhibit 44, which relates to doctors, is totally inappropriate -- Oregon Rule of Civil Procedure 44. Oregon Rule of Civil Procedure 43 applied only to parties. This is a rule which --

THE COURT: How about Rule 39?

MR. RUNSTEIN: Rule 36, Your Honor, 36. Mr. Wade -- I asked him what rule, and he said "C". I think he means -- help him -- I think he means (b) (3).

THE COURT: I thought there was -- I guess I was off a couple of numbers.

MR. RUNSTEIN: First of all, Your Honor, if you read (b) (3), it's very clear. It's talking about trial preparation materials, witness statements prepared for the case. We don't fall anywhere near that category. But if we did -- it then says that if the witness doesn't get them, he can apply for an order of the Court. We refuse to produce them; the witness never applied for the Court order. It says pursuant to Rule 46 (a) -- He never did that.

At that point we get to ordering things -- the Court has to issue an order first. There has been no such request for such order; never been a request for an order of this Court for all documents, correspondence of Gerald Armstrong. There was an order signed requiring his Bl file. And I respectfully suggest therefore that the Court is totally without authority and jurisdiction to issue sanctions precluding these documents from being used at trial under this or any other rule, absolutely no cases, no authority, no statute, and therefore, it's just a totally invalid and improper argument.

Perhaps I should stop and let Mr. Wade

respond and then I will respond on the biographical argument, unless the Court has some questions.

THE COURT: No, I have no questions.

MR. WADE: Your Honor, with respect to -- I'll address it in the same order -- with respect to the witness's request, Rule 36 (b) (3) states -- and I would read that part which I think is relevant:

"Upon request, a person who is not a party, may obtain, without being required showing, a statement concerning the action or subject matter previously made by that person. If the request is refused, the person or parties requesting the statement may move for a Court order. Provisions of Rule 46 (a) (4) apply for the award of expenses incurred in relation to the motion. For purposes of this subsection, a statement previously made is (a) a written statement signed or otherwise adopted, or approved by the person making it."

So what it would be, it would be any written statement signed, or otherwise adopted or approved by the person making it which is -- which concerns the action or its subject matter, Your Honor. That's exactly what these matters concern. If they did not, they would be irrelevant. They would not be relevant in this case.

With respect to the making of the request, a request was made in February, I believe, it's the 27th. The defendants never refused to produce these documents. They just haven't produced them at all. If they're saying we have to seek an order, we seek an order they be produced before this witness be interrogated concerning those documents.

In addition to that, Your Honor, with respect to the biographical material --

THE COURT: Wait. We are not there yet. We are only talking about one thing at a time.

MR. WADE: The purpose of the rule is to -- so the witness who is being interrogated about letters he signed, or documents he signed or adopts, can have that information before he's testifying from the witness stand. It is for the protection of those witnesses. And justice, I think, demands that be done.

Thank you, Your Honor.

MR. RUNSTEIN: As counsel now seems to acknowledge, the condition precendent is a request of an Court order. Counsel seems to have some trouble interpreting the English language like Miss Beran did, which states that when he requested them it wasn't, "Yes, we will produce them," but was, "I can't respond at this time. We will take them up at a later time."

I think the statute clearly applies and it's clearly intended to apply to the instance where insurance adjusters or attorneys' investigators take statements from witnesses, in preparation of a case. And indeed the commentary which I have here refers to Federal Rule 26 (b) (3), and it's relating to a person's own statement, which did not apply in the preceding ORS. 41.616 (4).

Indeed the witness could have applied for the Court for an order if refuse -- but again there's never been a position taken -- and at that point the Court felt it was unreasonable, the Court can assess the State attorney's fees.

THE COURT: Let's not worry about what the Court could have done. If everybody would have done what they're supposed to have done -- nobody has done what they are supposed to do. Really. They asked for production of them. You say "Yes," or "We will take it up later," and then nobody does anything.

MR. RUNSTEIN: When you say, "They asked" -- the witness asked.

THE COURT: Well, --

MR. RUNSTEIN: And we certainly didn't accede -- or concede -- again it's not the type of documents intended within this rule. I think had they asked, we would have taken it up pretrial, because I am sure we would have refused.
But again --

THE COURT: I'm sorry. You would have refused?

MR. RUNSTEIN: Yes. Unless there was a Court order, we would have taken the position this statute allows a deponent to obtain statements pertaining to this case. If the Court had ordered us to produce, we would have produced. Believe me, I don't mean we would have refused the Court's order. You are aware we don't do that.

However, what I do mean is that this statute simply doesn't apply to his correspondence. They knew they were going to call him. They could have moved; the Court could have ordered; they did not. It just isn't the -- the purpose of this statute is to get statements that parties have taken at the time you depose a witness.

It's simply inappropriate, and the allegations that we have refused to produce these documents when never requested properly, were never ordered -- I respectfully suggest the Court is without authority to issue any sanctions of this type.

MR. WADE: Your Honor, we requested the documents. I don't want to get into a long-winded argument, but what it says is: "A written statement signed or otherwise adopted or approved by the person making it, which concerns the subject matter of that action" --

THE COURT: It's subject matter of this action. That's what the language is. That's the problem.

MR. WADE: We requested it. We were told they would -- Miss Beran of course did not know that much about the case, and she asked that she get back to somebody, and we have been expecting those documents would have been provided for us. They have not been provided to us. So then they try to use them here at trial. What they have is the duty, before they use any documents, to provide those documents to the witness.

And what is interesting, it's not even the plaintiff or defendant; it's a witness. Mr. Armstrong, he requested those himself. And for them not to provide them to him before he testifies is unfair, Your Honor. He requested them. They didn't produce them for Mr. Armstrong. It wasn't even to be produced to us. It was to be produced to Mr. Armstrong, as the statute sets out, and it was not.

MR. RUNSTEIN: Again, I think if you read the federal rule, it refers to statements concerning the subject matter of the action, which is witness statements. Had we have gotten correspondence, we could have gone to it. We would have suggested this particular witness had no greater right than the plaintiff. But that's not what they did. The statute specifically says you have to get a Court order first. If the Court disagrees and orders us now to do it, I assume we will comply with the Court order, even though we disagree respectfully that the Court has that authority. They didn't do it. They simply want to skip all of the procedural, statutory steps, without authority, without any case ever holding it. They want to say, "We can't use the evidence."

We respectfully suggest the statutory procedures they have failed to follow; the witness has failed oh follow. They have been aware they haven't had these documents. They have never brought it up again. Miss Beran had enough sense not to concede to produce them. That's what the plain language of her statement is. The statute specifically says they may --

THE COURT: I wish you would stop hitting the table; it makes me nervous.

MR. RUNSTEIN: I'm sorry, Your Honor. The problem is, Your Honor, I come up and I hear legal arguments and then I go back and find the law is inappropriate. And I think the problem here is --

THE COURT: Is that the first time it's ever happened to you? Don't get too excited.

MR. RUNSTEIN: It happens to lot.

MR. WADE: The only statement, Your Honor, is it's apparent to me that the time for requesting the documents -- if they don't produce the documents it's not a refusal; they just don't produce them -- is at the time when they attempt to use them.

THE COURT: My only concern is, I'm not intending nor do I want to impose sanction on anyone. I think if there are documents regarding what's going to be used, Mr. Cooley, give them the documents.

MR. COOLEY: If the Court feels that that is appropriate without pretrial procedures, I'll do it.

THE COURT: Only because I don't want to take any more time, to take another proceeding to hear about those things. I simply don't think it's in expediency and administration of justice -- and I can certainly rely upon that authority, and that I do have, Mr. Runstein.

MR. COOLEY: I'll do whatever the Court thinks is fair and appropriate.

THE COURT: I think it's a matter of common fairness.

MR. COOLEY: I guess I'll have to suspend cross-examination of the man because -- until they have a chance to review them. I'll put them together tonight. If they are prepared to go with their next witness, we could do it that way.

THE COURT: How much of this is there?

MR. COOLEY: A lot. What I have on the table is only a part. I have two boxes full here.

THE COURT: Really?

MR. COOLEY: Yes. I assume this doesn't include his testimony in all the other cases. I don't feel I should have to furnish transcripts at my expense for Mr. McMurry.

THE COURT: I don't recall ever stating you had to do that.

MR. COOLEY: No. I want to make sure that was covered. There's a whole bunch of affidavits he's filed all over the country, and I assume that he has copies and that Mr. McMurry has access to those.

What I'm talking about are documents that are in Scientology, that were the Church of Scientology's files, and letters that he wrote and success stores that he wrote, correspondence between him and Laurel Sullivan. I have all manner of that material.

THE COURT: How much of that really is there that you need -- would hold up the proceedings at this moment?

MR. WADE: Your Honor, I really should not be the one that question is addressed to. I think Mr. Armstrong, I think only in fairness to him, he should be able to at least have an opportunity to review documents before he takes the witness stand.

THE COURT: Well, there may be some documents he's perfectly familiar with, Mr. Wade, that he has knowledge about and he knows he can testify about. I know of no such rule that says a witness --

MR. COOLEY: I have never been involved in a case where I had to furnish impeaching documents to a witness.

THE COURT: You didn't let me finish. I'm doing this out of some sense of fairness in this case. There's no rule that I know of that requires or that demands, without some showing, that they be produced. My question to you is, do we have to hold up proceedings to do that? When he says he can compile some of them tonight. And I'm sure Mr. Armstrong can testify from a good many of these documents just by refreshing his memory and looking at them.

MR. WADE: Your Honor, if I knew how many documents there are and what the documents were, it would be easier for me to answer the question. Perhaps what we could do, if we could pull --

THE COURT: Perhaps we should state initially, these don't qualify as Armstrong documents within the context of what I referred to as the Armstrong documents. These, simply from what you were describing, are not, quote, Armstrong documents.

MR. WADE: Well, --

THE COURT: The Armstrong documents are in the Superior Court of California.

MR. WADE: With respect to the biography that --

THE COURT: That's another matter. We haven't settled this matter yet.

MR. COOLEY: I can address that and tell the Court the short answer to that. That biography was attached to a letter or they call it -- I don't know, a dispatch or a communication from Mr. Armstrong to one of his supervisors in the organization. It was not segregated as a bio as such, so as an attachment, it was missed and I'm informed we did not produce it. It was inadverent. When I asked for -- on the basis of Mr. Armstrong's direct examination, I issued certain instructions to my clients for materials that I wanted. They complied with that and one of the things that came back was this -- I believe it's dated June 12, 1981, -- maybe May -- I can't remember which. It's a letter that he writes, and attached to it is a biographical sketch of L. Ron Hubbard. It's because it was an attachment context that it wasn't discovered. And I didn't realize it hadn't been produced. I am auto informed now that particular part was not produced. And that as far as communications of Mr. Armstrong, that we were only required by the Court's order to produce his Bl files, and we did.

MR. WADE: It's an interesting explanation, Your Honor. Page two of the biography it states it's copyrighted 1977 by L. Ron Hubbard. And published by the Church of Scientology of California. So I would bet there are more copies of that than just the attached to the letter.

MR. COOLEY: I have never seen one like that except attached to that, Your Honor.

MR. WADE: Getting back to the first matter, I would ask the Court to give me a minute or two to talk to Mr. Armstrong so he could answer the question of what documents he would like to review if he needs necessary --

THE COURT: That presupposes he knows what Mr. Cooley is going to do.

MR. WADE: That's correct, Your Honor.

MR. COOLEY: I would like to be fair, you know, Your Honor.

THE COURT: I know, Mr. Cooley.

MR. COOLEY: Fairness beats within me, but --

THE COURT: I know that. Very deep within you there's some fairness beating away somewhere.

MR. COOLEY: But I certainly think that it would be inappropriate for me to give this gentleman a blueprint of my cross-examination.

THE COURT: I don't think anyone ever said you should do that.

MR. WADE: What we are requesting Mr. Armstrong be provided with are written statements or letters that he wrote when he was in the Church of Scientology concerning the subject matters of this action, representations, misrepresentations.

THE COURT: Of this action.

MR. WADE: Yes. Subject matter of this action. Misrepresentations concerning either misrepresentations or --

THE COURT: I think that's fair.

MR. COOLEY: You mean that he wrote about Julie Christofferson's case?

THE COURT: I don't know. I heard him say this action.

MR. COOLEY: I can tell you right now I don't know of any such document. I'm not using anything where he comments on Julie Christofferson or her case. I am using -- he was the researcher for the -- L. Ron Hubbard biography and he wrote communications in that regard to his superiors. And one of them has been put into evidence here. I wish to deal with certain aspects of that if it is already in. There was an earlier one put in which I tried to put in this morning, an earlier one he wrote which didn't go into evidence. And just at the risk of giving Mr. Armstrong one small preview of my cross-examination, in that particular document, contrary to his testimony on this witness stand, he said it's okay to lie. I don't say it's bad to lie. I wanted to use it for that purpose. He wrote it.

If I have to furnish him with all of his prior inconsistent statements, I might as well just write out my questions and answers and let him go home and rehearse them. I think that's what Mr. Wade would like.

MR. WADE: Your Honor, what we are requesting is documentation that he prepared or he adopted which concerns him with respect to the subject matters of this -- of this case. I think that the area we are most concerned about is the area concerning the misrepresentations. Otherwise, his letters to Laurel Sullivan and others concerning the misrepresentations that he found in going through the documentation. We think that's fair for the witness to be able to review those, since that is the subject matter of this action which Mr. Armstrong is testifying about.

Now, if they have other documentation, we are not saying that that has to be produced. But with respect to the subject matter of this action, the misrepresentation material certainly should be produced.

MR. COOLEY: What misrepresentations? I don't know what you are talking about.

MR. WADE: We are talking about Mr. Armstrong's discovery of the misrepresentations that were made by the defendants and his research concerning those misrepresentations.

THE COURT: I'm not sure I'm following you now, Mr. Wade. I don't know where that paper trail is going. I'm looking at two boxes of stuff. Here's why I'm bothered. I know of no rule that says a witness must be furnished with impeaching material prior to cross-examination. That's number -- that's for openers. I know of no such rule. If you can show it to me, I will be glad to make myself acquainted with it, but I don't know of any such rule.

MR. WADE: Your Honor, I would agree with that as far as blanket rule. However, Rule 36 (b) (3) does allow the witness to request and to receive and, again, I would use what is the state of the next to the last line which gives a definition of what kind of documents that person may receive: "A written statement signed or otherwise adopted or approved by the person making it."

Then if we go back up to the top, where it defines what kind of information we are talking about, it is "A statement concerning the action or subject matter previously made by that person." And certainly statements made by Mr. Armstrong concerning the falsity or truthfulness of representations should be given to him under this rule, Your Honor. Under 36 (b) (3).

MR. COOLEY: The problem that I have with that approach, completely aside from the fact that there was no effort on the part of Mr. Armstrong or Mr. Wade, in behalf of Mr. Armstrong, to bring this to the Court's attention to obtain an order in advance of trial. Which would have been the neat way to handle it, particularly since there had been a delay in taking Mr. Armstrong's deposition at the behest of the plaintiff's counsel. But aside from that procedural short-coming, I don't read the word "statement" the way Mr. Wade reads it.

You have got, it seems to me, draw a very bright line between the generation of documents in the ordinary course of a person's business activities or religious activities, while the events are unfolding, from a stat the man or made to the man -- made by the man in connection with the litigation. I think that what we are talking about when we are dealing with statements are the kinds of statements that an accident victim gives an insurance adjuster or that get generated after the events.

THE COURT: That's how it's generally used. I grant you that you, but this doesn't say it.

MR. COOLEY: Here we are talking about a stream of documents generated in the course of the day-to-day work of the person, and it seems to me that it is up to counsel for a party, if that is -- if that is discoverable material that you want in the preparation of your case, to ask for it. And to fight for it. And if the Court orders it, then it's produced. Here the fight was centered on Mr. Armstrong's Bl files. Those Bl files were produced and I'm sure that he has perused them and examined them to his heart's content.

The day-to-day business of the Church, in which he was involved until December 12, 1981, generates a large quantity of documents that flow through the organization's various channels and to their various departments and to their various heads. But that doesn't, I think, make them statements by the witness. I think that that is not the kind of thing that's being addressed in that rule. If it is, then, in fact, a belated deposition such as this delayed at the request of the parties for his convenience, taken on the eve of trial -- incidentally, I misspoke myself this morning. Mr. Manion didn't take that one, that was round one.

THE COURT: I know he didn't take that one.

MR. COOLEY: There were two subsequent rounds.

THE COURT: I know exactly the one Mr. Manion took.

MR. COOLEY: So what we are dealing with, is that -- now the witness makes a broadside request on the eve of trial for that kind of document and then waits, lays back in ambush until we get into trial and then says, "You can't put in the documents."

And now I'm being asked to take my entire cross-examination file and lay it on the table for Mr. Wade so the witness can be properly prepared to counter whatever I might have to say.

MR. WADE: Well, the issue is really not what the plaintiff should have requested. We requested a great deal of documents. And some of those documents we received and some of them we did not. The issue here is the witness and the statute, the exclusory rule.

THE COURT: It does. It says, "Upon request, a person who's not a party may obtain without the required showing, statements concerning the action or its subject matter previously made by that person. If the request is refused, then they may move for a Court order." Now just let me --

MR. COOLEY: From what Mr. Runstein tells me of legislative history, this action was brought in 1977. I know of nothing in the files of the Church of Scientology in which this witness makes a statement concerning this action or --

THE COURT: How about its subject matter?

MR. COOLEY: -- or its subject matter. Now, we didn't even know what the subject matter was going to be, Your Honor, until the rulings on the evidence were made. We knew what the allegations were. To make an anticipatory production along those lines on the opening day of trial, I don't think this Court knew what what was going to unfold in this case.

THE COURT: You can believe that, Mr. Cooley.

MR. COOLEY: I can assure you that I didn't.

MR. RUNSTEIN: Your Honor, the argument I tried to make just didn't get made right. Let me try once more. Preceding the Oregon Rules of Civil Procedure we had in place, and the comments indicated ORS 41.616 Sub 4.

THE COURT: Correct.

MR. RUNSTEIN: It was identical to the first paragraph of B3 only.

THE COURT: You left out a last sentence or something.

MR. RUNSTEIN: It left out the whole last paragraph. And it specifically talks about documents, and then it says, "...prepared in anticipation of litigation or for trial." It is talking about those trial documents and statements --

THE COURT: That's the old language; right?

MR. RUNSTEIN: That's the first paragraph. The first paragraph says, B3. That's the old language, that's the present language. Let me show you my comments to it.

THE COURT: Show me what you are talking about, because I'm reading something entirely different than your're reading.

MR. RUNSTEIN: Take B3. Okay? First paragraph. That is the old ORS 41.616 Sub 4. No second paragraph.

THE COURT: Agreed.

MR. RUNSTEIN: Only the first paragraph. Now it says, "Subject to Rule 44 and Subsection B4, a party may obtain discovery of documents in tangible things, otherwise discoverable under Subsection B1 of this Rule," then it goes on, "and prepared in anticipation of litigation or for trial by or for another party or by or for that party's representative." Then you have to make a hardship showing. Do you follow?

THE COURT: I'm really not following you at all, Mr. Runstein.

MR. RUNSTEIN: I can see I'm having trouble then. Your Honor, the first paragraph, which was the old statute, specifically says that this provision, B3, is talking about documents produced in anticipation or preparation for trial.

THE COURT: That I understand.

MR. RUNSTEIN: Okay. Then, according to the comments, they added the second paragraph. But it's again talking about the same type of documents. It merely expands --

THE COURT: Well, that's where you and I are hung up, because it doesn't say it. They just added another paragraph.

MR. RUNSTEIN: Your Honor, the comment says --

THE COURT: The comment says, "The last paragraph relating to a person's own statement does not appear in the existing ORS language."

MR. REUNSTEIN: That's right. They added that paragraph.

THE COURT: I was on this committee.

MR. COOLEY: That answers the question for me.

MR. RUNSTEIN: That and the cases under ORS 26 B3 indicates to me the second paragraph is attempting to --

THE COURT: In fact, if you will pick up the book, you will see my name is on this committee.

MR. RUNSTEIN: Maybe Your Honor did understand the argument I was making. I thought you hadn't understood. The argument I'm making is, the second paragraph --

THE COURT: I'm no longer on the committee.

MR. RUNSTEIN: Okay. The second paragraph is an attempt to broaden the first paragraph or to expand the class of the first paragraph, but still talking of the same types of documents.

THE COURT: I guess that's where I'm hung up; that you are reading into it that it pertains to the same type of documents when my observation of it was, and kind of still is, that there has been added a second paragraph.

MR. RUNSTEIN: Again, it's under trial preparation materials. And again --

THE COURT: The heading is the same, I agree with you.

MR. RUNSTEIN: When you go to the cases when it talks about insurance adjusters, parties representative --

THE COURT: I know the reason for the rule.

MR. RUNSTEIN: That's what I'm saying. I don't think it was intended for a witness to say, "Let me know everything you are going to use against me." I don't think that was ever intended.

THE COURT: Now what you've said, Mr. Runstein, is what I just got through saying to Mr. Wade.

MR. RUNSTEIN: Okay.

MR. COOLEY: I think where we are at, Your Honor, is Your Honor is confronted with the situation as to whether you are now, on the request of the witness through Mr. Wade, going to order that these be produced. And that, then, depends upon Your Honor's view of what the statute reaches and what it doesn't reach.

THE COURT: I was approaching it on the basis of the common fairness doctrine, not within any perceptible rule, because I think if you wanted to resist this at a hearing, you might be correct. I'm not sure; Mr. Runstein's position may be correct.

MR. COOLEY: I'm willing to comply with anything that the Court thinks is fair and reasonable. All I ask of the Court to think about is how far I ought to have to go.

THE COURT: And I am considering that, because I under no circumstances do intend to -- it's not my prerogative to furnish other counsel with your trial preparation or your cross-examination. I'm not going to furnish yours to them, and I'm not going to furnish theirs to you, Mr. Cooley. The question was simply, and you cut through it just as I was trying to cut through it, is to what extent do we go to furnish what documents are required?

MR. COOLEY: Whatever Your Honor decides on the matter.

THE COURT: That's why I think Mr. Wade ought to just briefly confer with Mr. Armstrong to get an idea of what is required here. My general feeling is that Mr. Armstrong is very competent to handle a great many of this without a whole lot of review. That's my general reaction.

(Discussion was held off the record.)

MR. WADE: Your Honor, I have talked with Mr. Armstrong and he has stated he does not need success stories or affidavits or his prior sworn testimony in other cases or depositions taken in other cases; that he would like to have letters written or memos written by him that are in the files, and also he would like to have the rest of his Bl files which have not been produced. Those are the two items he requests.

MR. COOLEY: I don't have any Bl files. I understood they were all produced, and I don't know what he says wasn't produced.

MR. WADE: Maybe Mr. Armstrong could explain this better than me, Your Honor.

THE COURT: Now we have another problem.

MR. COOLEY: My client has informed me that the Bl files were produced and I'm going to stand by that no matter what Mr. Armstrong says.

MR. WADE: In addition to that, Mr. Armstrong has informed me that he has in his own case requested the same documentation that we are talking about today.

THE COURT: That's another case and we are not the dealing with that.

MR. COOLEY: He is ably represented by Mr. Flynn, I'm sure.

THE COURT: Mr. Cooley, please, I don't want to know anything about any other case. We are just dealing with this case at this time.

MR. WADE: What he would request are letters and memos authored by him.

THE COURT: Does that help at all, Mr. Cooley?

MR. COOLEY: Yes. That narrows it down considerably. Letters and memos authorized by him. He says he doesn't need his success stories. There may be letters that he wrote that -- I can't tell whether they are success stories or what they are, but I have letters that the man wrote. Is he talking about every letter he ever wrote since he was in Scientology that may appear in the files or is he is talking about this biographical project?

MR. WADE: He was requesting all letters, Your Honor.

MR. COOLEY: Any letter that I have that is my preparation file here, I will then give him. If I'm not going to use it, I'm not going to to go search for it, Your Honor. I'd hate to do that.

THE COURT: I certainly would not even consider that.

MR. COOLEY: Thank you.

THE COURT: Okay. We understand where your are on those items?

MR. COOLEY: Yes. That is helpful.

THE COURT: Good. My question then: are we able to proceed with cross-examination now, dealing with what you can deal with?

MR. COOLEY: Right now, the next few hours that I had charted out all deal with matters that he has asked for. For example, I have a number of letters that he wrote that I wanted to deal with on the very fact of the alleged disrepancies that he talked about. He wrote a number of those that I wanted to deal with next, and I had planned out my cross-examination in that order. As a matter of fact, I think that pretty close to the next day was based on his own writings.

I have a problem going forward with him now if I have to furnish him with that stuff.

THE COURT: This presents a real problem to me because it shuts us down for half day and I certainly don't want to do that.

MR. RUNSTEIN: Your Honor, under our procedure, when he gives him the letter from the witness stand, he gets chances to read it before he's asked questions, anyway. So why don't we just you move on and when the day is over, we'll give him what's left, if that's what it is.

MR. COOLEY: I don't think that's quite what the Court had in mind. I understand that.

THE COURT: I didn't know I had to be familiarized with procedure.

MR. WADE: It was my understanding that there was this was more than one day of cross-examination left. I suggest we just go into the next area.

THE COURT: That's a suggestion, again, that's Mr. Cooley's method of presentation. I really don't think that's proper, Mr. Wade, to tell him how to cross-examine, no more than he should tell you how to.

I don't know why we can't just go ahead, document by document. If he needs five or ten minutes to read the document before he answers a question, do it. Why can't we just proceed?

MR. COOLEY: I'd be happy to do that.

MR. WADE: We will proceed at this time, Your Honor, so we don't lose a half a day. However, we would like to have everything that's going to be used after today, if we could get those this evening so he would have a chance to look at those.

THE COURT: Okay. As I understand, Mr. Cooley, those aren't a terrible burden.

MR. COOLEY: No. I will have to go through each of the folders that I have to make sure what's in them, and then I'll pull them out.

THE COURT: I have been noticing that they are all neatly categorized in separate folders --

MR. COOLEY: They are.

THE COURT: -- so I don't anticipate Mr. Manion will have much of a problem doing that.

MR. MANION: It will just take some time, Your Honor. We will do it when we get back.

THE COURT: You picked up on that pretty well, Mr. Manion.

MR. MANION: That's my role.

MR. McMURRY: At this time we would move for production of naval and educational records that have been maintained by the Court so that we may have an opportunity to go through those and familiarize ourselves with those, through the Court's ruling. We think they are now germaine, we think that he should have a chance to at least have access to them to explain questions and not be kept up until one or two o'clock in the morning going through documents that cannot be --

It would seem to me, Your Honor, that Mr. Manion could take documents right now. They have heretofore made four copies. I don't see why we have to wait until tonight to have the copies of these letters and memorandums, authored by Mr. Armstrong, until sometime this evening when in our experience those sometimes are more --

THE COURT: If there is somebody available to do it, I don't --

MR. McMURRY: Mr. Manion is sitting right here.

MR. MANION: Hey, don't tell me what to do.

MR. COOLEY: I'm going to use my files now. If the Court wants me to take forty, forty-five minutes, I'll try to do it within that period of time. I think I can probably do it. But I --

THE COURT: Really?

MR. COOLEY: Sure. All I have to do is go through each file, and it's a quick matter of flipping through them. I'll do that, but I would like to oppose Mr. McMurry's motion to be furnished with the documents that the Court has sealed up.

THE COURT: Well that presents an entirely different problem, and I'll tell you why. This witness has already testified regarding his naval records. There has been nothing on cross-examination as yet to impeach this witness regarding his testimony. If at such time there is, your motion may then be well taken, Mr. McMurry. But as of this moment, he has testified that he saw them and as to what he saw. There are no reasons, in my opinion at this point, to take those out from under seal. It is one category that I did say Mr. McMurry could raise at a later date if necessary.

MR. McMURRY: I have raised it now, Your Honor. I understand the Court's earlier ruling. I only raised it now because throughout the course of this trial we have been obtaining documents that day or the hour or the moment before, and I just thought it would be an opportunity for us to be able to allow the witness something more than minutes to go through documents that are copious in nature and somewhat convoluted in content.

THE COURT: They are indeed that.

MR. McMURRY: It would seem to me in fairness to this witness, now that we have a procedure whereby we are going to get the documents, but we are also going to proceed now with the witness, it didn't seem to me that this is anything --

THE COURT: My only problem with it, as I indicated, Mr. McMurry, that there may not be any need for it. If there's no need for it, then I would prefer that they be left under seal.

MR. McMURRY: Very well, Your Honor.

THE COURT: So you don't have to make an objection regarding --

MR. COOLELY: I'm going on to something else now. How did we resolve that document with the biographical material attached? If I remove the biographical material --

THE COURT: I'm sure of that. Don't you, gentlemen?

MR. COOLEY: I gave them a copy this morning. That was that Exhibit 111 down in Los Angeles.

THE COURT: It's No. 875.

MR. COOLEY: Yes, sir.

THE COURT: Do you still have an objection now, Mr. Wade? You've got the document, I assume. He identified the letter.

MR. WADE: Well, with respect to the biography, itself, if the letter is going to come in, the biography will necessarily also because it speaks of the biography. To have the letter by itself, without the biography, you wouldn't be able to tell what Mr. Armstrong was talking about.

THE COURT: I just want to make sure. It was one of the items you complained of that you didn't get production on. So I want to make sure now that you have what you need.

MR. WADE: Well, I would like to make sure that we get all the other biographies and documents, and we don't have this kind of waiting around in the trial. I mean, at each point when something is produced we are told "a mistake was made and we didn't find this one." That doesn't really solve the process of discovery that we had before. With respect to this single document, we will withdraw our objection to the biography if the Court rules that the letter, itself, is discovery.

THE COURT: The letter has properly been identified. 875 will be received.

(Defendants' Exhibit No. 875 was

admitted into evidence.)

MR. COOLEY: Thank you.

THE COURT: Now, I want to know if we are going to have any more problems regarding this?

MR. COOLEY: I don't anticipate any, Your Honor.

THE COURT: It's not fair to ask you, Mr. Cooley, I'd better ask Mr. Runstein.

MR. COOLEY: It is fair to ask me in one regard. Remember we had a little lobby conference this morning on a subject matter. I don't want to go into it in open court with the witness here, with respect to some impeaching evidence.

THE COURT: You better see me in here.

MR. COOLEY: All right.

THE COURT: I don't remember.

Gentlemen.

(Following proceedings were held in chambers.)

THE COURT: You mentioned B1.

MR. WADE: I have been told by Mr. Armstrong on several occasions that his entire B1 file is not there. In fact, the B1 file makes references to other documents which are not contained in the B1 file, which are of the same nature. In addition to that, a document was used in his deposition which refers to other documents. And at that time, I specifically requested the other documents, and they have not been produced.

Other than Mr. Armstrong taking the stand, if the Court would wish him to testify what's missing from his B1 file, he can do that. But we have had motion after motion in this Court which we have contended that the entire B1 files are not being produced, that there's material taken out of those files.

THE COURT: This I consider serious.

MR. WADE: Your Honor, at one point, we had Mr. --

THE COURT: Because we had an order, we had a compliance.

MR. COOLEY: The client tells me the B1 files have been produced, Your Honor.

MR. WADE: It's very strange, and I'll give two examples. One of them was in Mr. Samuels' B1 file which we talked about at some time when Mr. Gutfeldt was on the stand, in which it discusses this Operation Juggernaut, the PR campaign against him, which would be an attack against Mr. Samuels. We requested also any documents concerning an attack. Yet there were no Black PR campaign documents concerning Operation Juggernaut.

With respect to Mr. Armstrong, as I have stated before, there are documents in the file which refer to other documents, and the other documents aren't included. Mr. Armstrong has some knowledge of Bl files. He was in the Church and given some of those files and saw some of those files during the biography project. He tells me they are just simply not complete.

In addition to this, the information, we have the same problem that we have talked about before and that is you will have raw data information as you would have in CIC, Combat Information Center file. But none of the orders, Guardian Program others or other orders to relating to obtaining that material are in the files.

THE COURT: Well, the only thing I can think of to do in this matter is either by way of affidavit or have him get on the stand and say, outside the presence of the jury, so we get started again, what he considers to be missing. I have no other way to do this. I don't care which way you want to do it.

MR. COOLEY: Either way, I don't care. The client tells me they have been produced, I take that to the bank.

THE COURT: Either way.

MR. WADE: I think we should have him take the stand.

THE COURT: All right.

(Following proceedings held in open court out of the presence of the jury.)

(Mr. Armstrong resumed the witness stand.)

THE COURT: This is a separate line of inquiry, Mr. Armstrong, regarding your Bl file. There seems to be a matter of some concern that they were not produced, if I understand this correctly, in their entirety, and I think we specifically have to find out about that.

VOIR DIRE EXAMINATION

BY MR. WADE:

Q. Mr. Armstrong, have you reviewed the documents that have been produced under the request for production by plaintiff which were requested on the production of Bl file?

A. Yes, I did.

Q. Are those files complete?

A. No, they are not.

Q. Would you please tell the Court what is missing from the files.

A. I cannot at this time because I don't have the files with me, telling you specifically what documents. However, I can tell by a perusal of part of the file called the time track, that a great number of the documents referenced on the time track are not in the file. Additionally, the file only goes up to, I believe, early 1983, and there's a great amount of documentation missing thereafter.

Now, the organization changed the name of the Guardian's Office, at some point, to the Office of Special Affairs, but it would be the same type of documentation.

Q. With respect to the time track you mentioned, how is the time track important in determining what documents would be in the B1 file?

A. Because the time track references documents from which information on the time track was taken, and each one of those documents should be in the B1 file. That is the Intelligence Bureau, the Guardian's Office's method of preparing files, of cross-referencing and cross-filing, so every document in there should be in the B1 file.

Q. With respect to documents prior to the documents that are in the file, the time tracks prior to 1983, are you sure that there are documents that should be in the B1 file that have been taken out or not produced?

A. That's correct.

MR. WADE: No further questions.

VOIR DIRE CROSS-EXAMINATION

BY MR. COOLEY:

Q. You cannot describe for us by document what you say is missing?

A. I can upon looking at the time track.

Q. Where is your time track? It isn't in the file?

A. The time track is in the Bl file. I do not have it with me.

MR. COOLEY: I suggest, Your Honor, we need to specificity, because my client assures me the Bl file has been produced in its entirety. And if the witness wishes to bring in his time track which he doesn't have with him and go over it and tell us what documents he says are missing, then we can deal with them one by one. I can't deal with them on a general broadside attack that it's incomplete.

THE COURT: All right. Mr. Armstrong, you have access to the this time track you are referring to?

THE WITNESS: Yes, Your Honor.

THE COURT: You have the opportunity this evening to take a look at that so we can determine what documents we are talking about that are missing.

THE WITNESS: I will prepare a list, Your Honor.

THE COURT: That will do it.

Okay. Can we have that by morning?

THE WITNESS: Yes.

MR. COOLEY: Can we ask him to bring the time track with him in the morning, Your Honor?

THE COURT: Yes.

THE WITNESS: Certainly.

MR. WADE: Thank you, Mr. Armstrong.

THE COURT: Okay. Are you ready to resume cross-examination?

MR. COOLEY: Yes, Your Honor.

(Following proceedings held in the presence of the jury.)

THE COURT: Okay. Members of the jury, we have been doing what I have told you we have been doing on other occasions for the last hour. And we are going to be doing it again, but we postponed it until later in the afternoon so I don't have to keep you here when we do it again. So we are going to let you go a little bit early this evening so we can continue with the matters that we have been taking up.

Okay? All right.

CONTINUED CROSS-EXAMINATION

BY MR. COOLEY:

Q. I show what has been previously been marked as Defendants' Exhibit 873 for identification and I ask you, sir, whether that is a document that was signed by you in January 20, 1981.

A. Yes.

Q. And was it also signed by Laurel Sullivan on that date?

A. Yes.

Q. Does that -- is that document a contract between you and the Church?

A. Yes.

Q. And to what does it pertain?

A. Well there's a number of parts to it. It lays out brief statements as to my prior history to be checked off, certain qualifications; there's a statement that I'm understanding and agreeing to number of things, including that Ron and Mary Sue receive no compensation from the organization; there's a statement about defining various particulars; and there's a signature at the end saying that with full knowledge of the information supplied, I agree to become a staff member for a period of five years.

Q. And does this agreement set forth the conditions of your arrangement with the Church?

A. To some degree.

Q. And did it constitute your contract to be on staff?

A. As I say, I had a and that was the contract that I had had for the past ten years, and this was being done to circumvent some legal problem at that time.

Q. This contract is between you and the Church of Scientology of California; is it not?

A. I guess so.

Q. If you look at the first page --

A. I know what it says. It says I'm applying for active participation as a staff member.

Q. Within the Church of Scientology of California?

A. That's correct.

Q. And subsequent to January 20, 1981, did you serve, pursuant to this contract, in your position as researcher?

A. Nothing changed with this contract, if that's what you mean.

Q. You continued the duties that you had been doing prior to January 20, 1981?

A. That's correct.

Q. Now, on the last page --

MR. COOLEY: Incidentally, I guess I ought to offer this contract, Your Honor.

MR. WADE: No objection, Your Honor.

THE COURT: 873 is received.

(Defendants' Exhibit 873 was admitted into evidence.)

BY MR. COOLEY: (Continuing)

Q. On the last page, Mr. Armstrong, you have the paragraph that says, "With full knowledge of the information supplied and being fully aware of the conditions stated in the covenant, I agree to become a staff member of the Church of Scientology of California for a period of," and then there's A, B, C -- three possibilities. A is five years; B is two and a half years; and C is on a weekly basis.

A. I should have circled on a weekly basis.

Q. Well, you circled two and half years, didn't you?

A. Yes.

Q. Because that circle is in the same kind of ink and stroke that shows on your signature; right?

A. Correct.

Q. However, there's a circle around five years, also. Who put that circle there, do you know?

A. I did.

Q. Are those your initials, GA, next to the circle of five years?

A. Yes.

Q. Is that because when you turned it in or when you originally circled two and a half years, you were unaware of the requirement if you were a Sea Org member your contract had to be for five years and not to two and half years?

A. That's correct.

Q. Who reminded you of that?

A. My recollection is, Ron Pook.

Q. Who is he?

A. He was -- he was in what we call the Port Captain's office at Gilman Hot Springs. He was involved in legal actions to do with this and to do with the movies that were being shot out there.

(Defendants' Exhibit 874 and 875 were marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I hand you have been marked Exhibits 874 and 875 for identification and I'm going to deal with 874 first, sir. Is Exhibit 874 for identification a letter which you wrote to Laurel Sullivan on May 16, 1980?

A. Yes.

MR. COOLEY: I offer it.

MR. WADE: No objection, Your Honor.

(Defendant's Exhibit 874 admitted into evidence.)

BY MR. COOLEY: (Continuing)

Q. Would you like to take a minute to read it?

A. Okay.

THE COURT: With any reference to any documents now, let me say this to you, Mr. Armstrong, you can take whatever time you need to read these exhibits before you answer any questions regarding them.

THE WITNESS: Okay, Your Honor.

MR. COOLEY: That is satisfactory, Your Honor.

BY MR. COOLEY: (Continuing)

Q. Now, remember I asked you whether you had developed an angle that you wanted to stress, namely, that the aspect of L. Ron Hubbard as a patriot. Does this letter indicate that you were dealing with that concept?

A. Yes.

Q. Did you develop that concept?

A. No. Laurel said on here that "Don't say patriot or patiortic, because believe it or not, it's unpopular these days."

Q. So you, in substance, had run this by Laurel and she didn't think it was a very good idea?

A. Correct.

Q. As you were going through your presentation here -- why don't you read this letter to the jury, please.

A. It's addressed to the Senior Personal Public Relations Officer, 16 May 1980 from me, researcher. "Re: DA pack." DA is a dead agent. Dead agent pack.

Q. What DA pack are you referring to, sir?

A. Laurel had requested that I put together a group of materials from the Hubbard archives which would be used to refute a number of what were called false reports, which were being spread about L. Ron Hubbard at that time. A dead agent term comes from -- it was created by L. Ron Hubbard and it was used in intelligence work. And where it is used when an agent -- an enemy agent is disseminating information about you or about something. If you can find something that's false in it, and document the falsity, and then go to the people to whom the enemy agent has been disseminating the information, and with the documented truth, show that to the person who has received the false information, the enemy agent will, therefore, no longer be believed and he will, in fact, be dead. So dead agent pack, in this case, was a pack of materials which I was to put together, because we now supposedly had the truth about L. Ron Hubbard, to dead agent the people, the enemy, who were then disseminating what we considered false information about L. Ron Hubbard.

Q. All right. Would you now read the letter. Thank you, sir.

A. "Dear Laurel. This is not an outline in listing of every dock" -- document -- "to be included, but a preliminary idea on where we are going; that is, my idea. I just want to bounce it off you to see how it sounds -- bounce, boomp or bounce, doink.

"The angle I want to stress is that of the partiot. This has never been covered in much dept before. Then it encompasses how society vilifies or rather how small and corrupt individuals vilify the real partiot. Society and the nation is only as strong as the individuals it is composed off. A partiot is one who acts to strengthen the nation or individuals. Edison, the worlds greatest inventor untutored. Washington, the real patriot because he gave men freedom, yet vilified by the establishment, the British. Martin Luther King who worked to give a race freedom that vilified by the establishment.

"Are these greats unpatriotic and did they deserve the vilification they got? Aren't the attackers the people who have something to gain by keeping a nation or people enslaved? Haven't the critics always been those who could not be perform in the art or science, but through their criticisms and attacks on the artists and creators and destruction of the creative individuals, were able to cover up their own incompetence by removal of the others' success.

"LRH partiot. From youngest times always involved, never backing off from any situation. Served in the National Guard, the Marines, Navy, and did a short stretch in which to study man in the roughest of conditions as a piece officer on a LAPD, police department.

"Never stopped communicating. Not only made his career in the fiction field, but influenced the lives of other writers and worked to help new writers breaking in. Wounded, left in a hospital following the war, left by the government with a blank dollar pension. It took him blank years for the government to up his stipend.

"He had no bone to pick with the psychiatric profession and, in fact, wrote them about Dianetics and his research over a year before he published Dianetics, Modern Science of Mental Health. But the attacks were mounted, et cetera, et cetera.

"Yet despite it all, LRH continued to communicate. His horizons broadened from the resolution of the mental problems of man to addressing the spiritual nature of man, and investigating the questions and riddles of the universe unanswered for thousands of years. Is he wrong for attempting to answer and answering these questions? No more than Edison for creating an electric light, Washington for establishing the planet's first workable democracy, King for bringing equality between the races.

"In to this can be tied the fact of his noninterest in money and the freedom attainable in Scientology. What think you?

"Much love. Gerry."

Q. Back on page one when you made reference to Edison, the world's greatest inventor, who was untutored, did you mean by that a reference to the well-known fact that Thomas Edison only had about four years of formal schooling and, in fact, was the most prolific inventor in the history of America?

A. Something like that.

Q. And did you have in mind, also, the fact that Einstein, himself, was an indifferent student and yet developed the theory of relativity that led to a revolution --

MR. WADE: Objection, Your Honor. Irrelevant.

THE COURT: Yes. Sustained as to Mr. Einstein.

BY MR. COOLEY: (Continuing)

Q. In any event, was that reference to Edison being an untutored genius, so to speak, made in the light of your knowledge at that time that L. Ron Hubbard did not, in fact, hold a degree from George Washington University?

A. I don't recall at that time. It could have been that Mr. Hubbard did this all by himself without any help from any of us.

Q. You could have been referring to that?

A. It could have been, I don't recall.

Q. You are not sure now what it was?

A. No.

Q. But of the three people you selected, Edison, Washington and Martin Luther King -- Edison was selected for his genius in the face of a lack of formal schooling; isn't that a fair statement?

A. It was certainly apart of it. You know, we were taught by Mr. Hubbard to denigrate normal societal education, formal education.

Q. He didn't think much of formal education, did he?

A. No, he didn't.

Q. Did you learn that he dropped out of George Washington University in order to pursue writing and, in fact, did commence on a prolific writing career in the thirties?

MR. WADE: Objection, Your Honor. Irrelevant.

THE COURT: Overruled.

THE WITNESS: I think he dropped out because of bad marks. If he had been successful, he might have continued. He wasn't.

BY MR. COOLEY: (Continuing)

Q. Did you bother to compare his dropping out and the dates on which he dropped out with the writings that the man has done over the years to determine just how much he was writing, a) while he was in George Washington University; and b) when he immediately dropped out?

A. I know that when he immediately dropped out, he initially went on a cruise in the Caribbean and immediately thereafter went to Puerta Rico to find gold. He was not, at that time, involved in writing. The writing began upon his return in 1933.

Q. You are sure of that?

A. Yes, other than what I have told you, the articles which appeared in the university -- the Hatchet and --

Q. The Hatchet was a George Washington University publication, was it?

A. Yes.

Q. Did a short story of his appear in there?

A. A play.

Q. Did not also a -- did not a publication of his that won a prize appear in there?

A. That's one of the ones I'm referring to, yes.

Q. What prize did it win?

MR. WADE: Your Honor, we object on the grounds of relevancy. His testimony has been he did not graduate from George Wshington University as a chemical engineer.

THE COURT: Mr. Wade, he went much further than that. Overruled. He testified as to his writings. He is his biographer.

BY MR. COOLEY: (Continuing)

Q. Do you remember the question Mr. Armstrong?

A. Yes.

THE WITNESS: Your Honor, I was the

researcher, Omar Garrison was the biographer.

THE COURT: I stand corrected. The researcher.

THE WITNESS: I do not recall what the title of the award, if any.

BY MR. COOLEY: (Continuing)

Q. Was it a George Washington University award?

A. If he wrote it in the George Washington University Hatchet paper, then it was. I do recall that there was something and I don't recall if it was for the short story or the play.

Q. When was that published, do you know?

A. My recollection is 1931.

Q. Now, Exhibit 875 you have for identification before you, sir?

A. Yes.

Q. Could you tell us what that is.

THE COURT: It's already been received Mr. Cooley. 875 has been received.

MR. COOLEY: Has it?

BY MR. COOLEY: (Continuing)

Q. That is something you wrote; isn't it, sir?

A. Yes. It's my communication to Sue Anderson who was the LRH Personal Public Relations Officer International.

Q. When did you write that?

A. It's dated 18 June 1981.

Q. Does that document contain some inconsistencies which you had found up to that point?

A. Yes.

Q. And some inaccuracies in L. Ron Hubbard's previously-published biographical material?

A. Yes.

Q. And indeed, you make twenty-two points there, do you not?

A. Yes.

Q. As compared to Exhibit 187, which was put in during your direct examination, which you wrote three months later or two and half months later, on 1 September 1981, that contained forty-one points?

A. Okay.

Q. Did you find another twenty point or so between June and September?

A. I don't believe that they are the same document, so I don't know how to answer your question in light of that.

Q. In fairness, you don't have 187 before you, do you? Do you have it? Or do you just have --

A. You are referring to different document from which I found various points; correct?

MR. COOLEY: Could the witness be furnished with Exhibit 187, please.

(Plaintiff's Exhibit 187 was handed to the witness.)

BY MR. COOLEY: (Continuing)

Q. Do you see Exhibit 187 is your critique of September 1, 1981?

A. Okay.

Q. That was sent to Barbara, "Dear Barbara" who is that?

A. Barbara De Celle.

Q. And the letter of June 18, 1981, was sent to whom? Sue.

A. Sue Anderson.

Q. What was Barbara De Celle's position in September?

A. I think she was the Properties Chief. Yeah, Properties Director. LRH -- it should be PA. Public Affairs. It was not at that time called the Personal Public Relations Office, but Public Affairs. She was the Properties Director. She was in charge of getting Mr. Hubbard's various writings republished in different forms for sale.

Q. Now, Exhibit 875 was written to Sue Anderson. What was her position?

A. She was the Personal Public Relations Officer. PA, Public Affairs Director International. She was the Personal Public Relations Officer, International.

Q. Now, you can see, can you not, that several -- in fact, a number of the criticisms or so-called inconsistencies that you have pointed up in your letter of June 18, 1981, are also contained in your letter of September 1, 1981?

A. Okay. I have not compared them, but I will take your word on that.

Q. And, for example, on June 18, 1981, you raised the issue that there was no cattle ranch in Montana. That's your very first issue?

A. Okay. You know, we are talking about two separate documents here, Mr. Cooley.

Q. I know that. But they are both written by you, aren't they?

A. No. We are talking about -- if you want to call these things critiques, I'm critiquing two separate documents. Do you know that?

Q. Yes, I understand that. But you are critiquing them in the context of your then knowledge as his researcher?

A. Right. But they are two different documents. To compare them is -- we have to realize --

Q. You are critiquing in one letter a biographical sketch of L. Ron Hubbard that is different from the biographical sketch you are critiquing in the other letter.

A. Okay.

Q. But it is the same in some particulars, is it not?

A. Yes.

Q. And so when, in June, you say, "According to his various relatives, that's your number according to his various relatives, there's no cattle ranch. I find no record of one in the records. I checked in Montana. His grandfather did raise a few horses in Kalispell, Montana, but no cattle ranch;" right?

A. Yes.

Q. So you did determine, did you not, that his grandfather had some land in Montana on which e raised some horses?

A. Yes.

Q. How much land?

A. I can't tell you at this time.

Q. Well, was it more than just a little plot of land? Was it a lot of land? Was it more than a hundred acres?

A. It was not a quarter the size of Montana.

Q. Was it somewhere between zero and a quarter of the size of Montana, would we find it, and if so, what's the order of magnitude?

A. Closer to zero.

Q. Less than an acre?

A. No.

Q. Well, how much land? You went out there and saw it, didn't you?

A. I don't recall at this time, the acreage.

Q. And in the summer of 1981, didn't you and Omar

Garrison take a trip to Montana for genealogical expedition?

A. I termed the genealogical expedition that which I did earlier on. We did perhaps do some genealogy study during that time, but in any case, we did go to Kalispell and we did interview Mr. Hubbard's living aunt.

Q. Did you check the deeds office to find out how much land was owned by his grandfather?

A. I don't believe so. The information was gotten from the cousins and aunt. We did have a location for the property, but I do not recall.

Q. Then you said, "According to his various relatives, there was no cattle ranch. I could find no record of one in the records I checked in Montana."

What records did you check in Montana?

A. Those in Helena.

Q. What records were they?

A. County records.

Q. Real estate records? Tax records?

A. Real estate records.

Q. You said, "His grandfather did raise a few horses in Kalispell, Montana, but no cattle ranch."

Where did you get that information from?

A. From his living aunt, living uncle, cousins.

Q. Did you check with the records to determine how big a spread his grandfather had for horses in Kalispell?

A. No, I did not.

Q. Now, that point is similar, is it not, to the point five in your letter of September 1, 1981?

A. I have here point one is the --

Q. I said point five.

A. "Life of a young rancher seems an overglamorization of the life of a three- or four-year-old child in Montana." This is the one?

Q. Yes. His uncle was with the Waterburys in Montana until 1918 says: "Ron did hardly any riding and little if any shooting or hunting. It may be true, but it sounds like PR and at this point is unverified."

You were there referring to the Monotana childhood and the ranch life, were you not?

A. Yes.

Q. And when you refer to broncos, you had determined that his grandfather raised horses; did you not?

A. Yes.

Q. Now, point two in your letter of June 1981 says: "Mother's name was Ledora May Hubbard. This error has passed on from biog to biog. She was called May by the family, but not Dora. She initialed things "LMH" -- I take it, meaning Ledora May Hubbard?

A. Yes.

Q. Was that the only time you had seen that inaccuracy with respect to the designation of his mother?

A. I think it was passed on perhaps from document to document.

Q. What was the problem? They called her Dora May, instead of Ledora?

A. Well, that's all that I'm referencing here. That was it.

Q. You didn't consider that a big deal, did you?

A. No.

Q. Point three is: "I don't know where the 'DeWolfe' comes in here. LRH's grandmother was Ida Corine DeWolfe, but his mother was simply born Ledora May Waterbury."

That's about the same as point two that you make in the letter of September 1st; isn't that right?

A. That's correct.

Q. And then in point three on your letter of June 18, you say: "I would quote LRH on the reading and writing at age three-and-a-half."

A. Yes.

Q. What do you mean by that?

A. Who, but L. Ron Hubbard -- who, but from L. Ron Hubbard could this come? If whoever is writing this were to say "L. Ron Hubbard said that he was reading and writing at the age of three-and-a-half," but for the Organization to put that out, which is completely unverified and impossible to verify it, and not substantiated by everything that I could find --

Q. When you went on tour, did you ask his aunts whether that was true?

A. That and various other things, yes.

Q. All right. So that is substantially the same as your point four in your letter of September 1st, 1981, isn't it?

A. Okay.

Q. You say: "Doubtful he read and wrote at three-and-a-half. His story at age ten is that of a ten-year-old, maybe a bit above average for that age. My opinion is that it is a silly claim."

A. Yes.

Q. You were just of the view that it was an unnecessary claim to make and ought not to be made, right?

A. At least, yes.

Q. Now, on point five in your letter of June 18 you say: "Also quote him on the blood brother to the Picuni."

That's a reference to some biographical material that said that at an early age he became blood brother to the Picuni Indian, huh?

A. Yes.

Q. And that criticism is about the same as your number six in your letter of September 1?

A. They are both about the blood-brother thing.

Q. Both about the Picuni?

A. Yes.

Q. You found no documentation one way or another on that, did you?

A. No one in his family knew about it. And his own statements regarding the various dates of when this was supposed to have occurred conflicted.

Q. Did you check out the Picunis?

A. No.

Q. As we go through, you can see that there are a number of points that are the same criticisms that you make in September, except that you add points in September, correct?

A. Yes.

Q. Now, would you read -- we started with point one. Would you read the preamble to the point you make, which would be in the first page of the letter and the first three paragraphs of the second page of the letter, to the jury, please.

A. This is to Sue Anderson, the LRH Public Affairs Director International. 18 June 1981. "Re: LRH's biography sketches. Dear Sue, I'll rundown the points which are not accurate according to information I have or which can't be backed up. First of all, let me give you my impression of these, a very critical view which I think is needed if optimum results are to be achieved. And you pretty well have to assume the viewpoint of a fairly critical, woggish non-Scientologist, as the dedicated Scientologists don't even need a biog.

"One point is that where they are his statements, rather than someone else's opinions or research data, they should be stated as his. There's no way any of us could know that he 'learned to read and write at the age of three-and-a-half,' but to not quote him as the source of the data, makes it sound like a fabrication. There are other such instances: blood brother of the Picuni; by the time he was twelve years old, read a large number of the world's classics; et cetera. I look at this this way: If we have no other source of data on him -- on it, than him, then quote him. And if this quote makes him sound like a braggart, don't use it.

"Another point is the juxtaposition of important facts with irrelevancies. To me they indicate something hidden. The lack of parallellism points up another 'out' point. For example, as early as 1951 the publisher Cassini had brought out the first Italian edition in Rome. For example, the International Oceanographic Foundation with headquarters in Miami, Florida, made him a fellow of the society. Example, while there, he studied the ways of Tlingit Indians. For example, he took his sailing ship A Catch Magician, which he called Maggie. Beyond that, the writer should know for certain that what he is writing is fact, fiction, or opinion. It doesn't really matter as long as the writer knows. I'm not even saying that lying is bad. The writer should just realize what he is saying and know the source of the data. As you know, there are afoot right now a couple of attempts to debunk the various biographical sketches which have been written about LRH.

"The Garrison biography will also steer clear of the suspect, unverifiable points -- read at three-and-a-half, busting broncos at three-and-a-half, the world's classics by twelve, et cetera -- per Omar: (1) because they sound nonsensical and are irrelevant, (2) because they are unverifiable.

"So for these reasons, it is good that you are cleaning up the sketches we have. A way to get around the omission of the various points which have been in previous sketches, but which are erroneous, is to make the sketch more symmetical. A single seam running through the article, rather than disjointed facts, will easily allow the omission of various points of error."

Q. Now, when you say in the first paragraph on page two: "Beyond that, the writer should know for certain that what he is writing is fact, fiction, or opinion. It doesn't really matter as long as the writer knows." Are you speaking for Omar Garrison when you say that it doesn't really matter whether he writes fact, fiction, or opinion, as long as he knows what he is doing?

A. Here, I'm writing to Sue Anderson, and this has to do with -- there were attempts being made at that point to republish or restate biographical information, probably because of, as I say here, there are attempts to debunk these sketches which have been written about LRH. The same is probably true for Garrison. I don't believe I was talking about Garrison in that context, but I would at that point have said the same thing. I tried to provide Omar with as much truth, documentation, be able to authenticate the sources of it as accurately as possible. I did not try and constrict what he was going to do with that.

Q. But did you intend to say Omar was writing fiction, so long as he knew what he was doing?

A. No, I wasn't intending that at all. My intention had been from the start -- and I believe Omar Garrison's intention as well -- to do a accurate, documented, verifiable biography. He wanted it to be the truth. He was not going to put lies in it. When I say here, "I'm not even saying that lying is bad," that's just so that -- because I'm writing about L. Ron Hubbard; these are his statements. And Hubbard himself has said that lying isn't bad; he's instructed people to lie, on many occasions. I didn't want it construed that I was saying that L. Ron Hubbard was bad for having lied.

Q. Did you subscribe to that philosophy that you put down there, "I'm not even saying that lying is bad," in biographical sketches. Did you subscribe to that?

A. It's very difficult to say what I subscribed to back in those days. I think that it's obvious here that my mind was being twisted with these various facts that I was coming across and the disparity between what I had found and what had been pumped out over the years by Mr. Hubbard and the Organization.

Q. When did your mind get A. I'm still trying to untwist it now.

Q. Are you suggesting that you lack some capacity here today?

A. I'm suggesting that your client, that's L. Ron Hubbard, messed up my mind --

Q. No, I'm sorry. He is not my client. I represent the Church of Scientology of California.

A. I know who you represent, Mr. Cooley.

Q. Judge Londer has been quite clear on that.

A. L. Ron Hubbard has messed with my mind over a long period of time.

Q. What I'm trying to determine is, do you feel you are under some mental incapacity to give testimony in this case?

A. I will give you my testimony as accurately as I can.

Q. To what extent do you feel incapacitated?

MR.WADE: Objection, Your Honor. The witness is not being allowed to answer the question.

THE COURT: Did you understand his question?

THE WITNESS: Yes, Your Honor.

THE COURT: Would you answer it, please.

THE WITNESS: Mr. Cooley, I still grapple with what has been done to me, what happened, what has been done to my mind, and the perfidy of the man in the Organization. And sometimes it's difficult.

BY MR. COOLEY: (Continuing)

Q. Have you grappled with it in Griffith Park lately, sir?

A. Sometimes I grapple with it wherever I am. It's difficult. I have sought to get back whatever capacities I had. And in part, I'm here because this is a forum in which I can grapple with it. I'm not particularly proud of anything I did within the Organization or -- That's all.

Q. Have you ever suggested to anyone that they commit perjury in depositions taken in Scientology cases?

A. No.

Q. Have you ever --

A. Whenever anyone asked me, I say, "You know, regardless which way the cards fall, lay it out."

Q. Have you ever suggested to anyone that if you were called upon to give testimony concerning efforts by Michael Flynn, through you, to conduct covert operations against the

Church, you would deny any contact with Michael Flynn on that subject matter?

MR.WADE: Objection, Your Honor. Irrelevant.

THE COURT: I will here you on this.

(Following proceedings held in chambers.)

THE COURT: Okay.

MR. COOLEY: I have evidence --

THE COURT: What was the question?

MR. COOLEY: Did you ever suggest to anybody, tell anybody, that in any deposition in which he was asked about the involvement of Michael Flynn and through himself and covert operations against the Church, that he would deny knowledge of Michael Flynn's activities in that regard. The objection was then made and we are here before he's answered it. And I have evidence --

THE COURT: I guess I'm dealing with -- maybe it's me or maybe it's the afternoon or maybe it's the sunshine. I guess don't understand the question.

MR. COOLEY: The question is this. I'll tell you exactly where I am at. Remember this morning we got into this covert operation, he flatly denied that he ever proposed or participated in any covert operation against the Church.

THE COURT: I remember that.

MR. COOLEY: I have evidence that's a baldface lie. That he did participate in such a program, that he did propose such a program, that the program took the form of planting documents in Scientology's files, that the program took the form of perjury, purjured testimony, and that it took the form of setting up Scientology for a raid with planted documents found in its files that would implicate activities that Mr. Armstrong invented, together with Mr. Michael Flynn. And I intend to introduce that evidence in this case. In the light of this man's testimony.

MR. WADE: Do you want me to address that?

THE COURT: I wish you would.

MR. WADE: Number one, this morning the matter was brought up it's clearly collateral matter. Because it is a collateral matter, the attorney asking the question must take the answer. This is so far from this case, this new conspiracy concept or idea, is so far from the case, and I thought we had decided this morning that that was a collateral collateral. And with a collateral matter, you are not --

THE COURT: No. You decided this morning. I didn't decide anything this morning yet.

MR. WADE: I thought Your Honor had. With respect to that, he's also getting into an area that's very close to attorney/client privilege. Mr. Flynn is his attorney. Mr. Armstrong's attorney in his case. Therefore, there would be -- could be an objection on attorney/client grounds with respect to conversations between Mr. --

THE COURT: That's when my ears perked up when you talked about Mr. Flynn in conversation with him.

MR. COOLEY: The attorney/client privilege does not apply to the commission of criminal acts by the attorney and the client. It has never protected such acts, Your Honor.

THE COURT: I know it hasn't protected the attorney.

MR. COOLEY: It certainly doesn't protect the clients, it doesn't protect the attorneys. If it didn't protect the attorney, it can't protect the clients.

MR. WADE: I don't know what Mr. Cooley has planned, but if he intends to call, I guess, Scientologists or others as witnesses to testify about this alleged orchestrated scheme, some reason to show Mr. Armstrong is trying to destroy the Church by planting phony documents, et cetera, I guess the only thing that I could say about that, the only way it could be relevant in this case would be some way to show bias. If it isn't some way to show bias, I think the Court --

THE COURT: Clearly, it's to show bias.

MR. WADE: I think the Court has the power, even if there were such evidence available, within its discretion to determine that gets us into an entirely different matter. And the Court has the discretion to cut that off, because the effect of the relevancy of that kind of material, compared to the amount of time it would take to try it, I think the amount of time and the preparation for the trying of that are such that that outweighs the relevancy of the material with respect to bias. With respect to bias, Mr. Armstrong is certainly suing the Church for things that have been done to him. He is testifying in this case. He has stated to the jury on many occasions that he wants the Church to change, to stop making these kinds of misrepresentations. He thinks that's wrong. He thinks he has been injured by L. Ron Hubbard and this organization.

And to go any further with this line of questioning on the matter that has relevance only with respect to the impeachment of a witness, I think is improper. And it's within the Court's discretion to determine that the relevancy of the evidence is outweighed by the fact that we are getting into an area now where it seems what the defendants wish to do is put Mr. Flynn, who isn't even here and whose name is mentioned time and time again, whose not an attorney for the plaintiff in this case, and Mr. Armstrong on trial for some kind of a criminal conspiracy against the Church.

If they have a claim or a cause of action concerning that, they can file that in another action. But not in this one. We have been precluded from, in effect, trying Mr. Armstrongs case and we are not trying to try Mr. Armstrong's case. What we are trying to do is put on evidence relevant to the allegations in our complaint.

MR. COOLEY: Your Honor, the matters that I am alluding to and which will unfold before this Court in due time are matters that go to the very integrity of this Court as an institution with this witness appearing here. I think this Court has its own stake in this matter. With respect to what game plans this witness has had and has participated in and then presents himself here as one whose sole goal in life is simply to reform the Church of Scientology which is doing such bad things. I have grave doubts as to the authenticity of an exhibit thaidence in this case.

THE COURT: Before we go any further, we have got so many matters to take up. This is important and I wanted to give you both a chance to talk about this.

I'm going to let them go. You are in an area that I want to thoroughly discuss here. I'll give you my reasons for that in a moment. But part of it, part of what Mr. Cooley says is part of my thinking, too. This court does, at least to my way of thinking, has some interest in that whatever the search for truth may be, this is one Court that will let it happen without regards for either side. But I want to think about it from a legal -- that's a philosohical point of view as opposed to legal point of view. I just want to let you all know where I come from regarding that.

MR. COOLEY: While Your Honor is thinking about it, I can be doing the work for Mr. McMurry.

THE COURT: I thought about that, but I want to hear your argument before you do that work. I'm going to send the jury home for the evening and then you guys can have coffee.

(Following proceedings held in the presence of the jury.)

THE COURT: All right. We have some important matters to take up. I told you we were going to quit a little early anyway. We might as well quit and I will go on with the lawyers.

Please remember my cautionary instructions. They become more important as each day goes by now. And they are going to become increasingly more important now that they -- not that they weren't important from the very beginning. Please bear them in mind.

Do you want me to repeat them all? Everybody is shaking their head no. They all understand them thoroughly. I have said them over and I know beginning to sound repetitious and I wouldn't do that if it wasn't so important. 9:30 tomorrow morning.

JUROR: We are not required to go to work on Friday?

THE COURT: No, you are not. You are

sequestered during the trial. I suggest you don't go. You will not be required to go to work. I'm sequestering you for this trial.

(Jury was excused.)

THE COURT: We are In recess until tomorrow morning.

(Following proceedings held in chambers.)

THE COURT: Okay.

MR. COOLEY: This witness has testified that the Church of Scientology engaged in, quote, atrocious, end of quote, acts against him. And he went on to describe them on direct examination. He further testified on direct examination that he would never have done anything against the Church or bothered the Church or sued the Church or anything if they had left him alone; that everything he did was motivated by altruistic motives to do see to it that truth was brought to the process; that chicanery was exposed, and that justice was done.

He testified on cross-examination that he had -- that the extent of his retaliation against the Church had been to file a counterclaim for sixty million dollars against the Church when the Church sued him. It has not yet been brought out in the evidence, but will be that what the Church sued him for was conversion of those documents. And he counterclaimed for sixty million dollars.

He testified that, in addition to the claim for sixty million, he has spoken out against the Church in the press and on the national ABC show, 20/20, and that anyone who ever asked him, would get the truth from him about the Church and his experience in the Church, and that, in substance, was the extent of anything -- action he had taken against the Church.

When he was asked the direct question as to whether he had ever engaged in -- the precise question was, "Have you ever proposed or participated in any covert activity aimed at the Church?" He answered, "No." He then went on to elaborate and concluded again at the end of the elaboration that the answer was no.

I have evidence that will be introduced in this case that this witness attempted to infiltrate Scientology for the purpose of creating and planting false documents in the files of Scientology; that the plan was then, after those documents had been planted, to have the people who planted them, who were to be inside Scientology, to bring a lawsuit that had been drawn up in rough draft by Michael Flynn, which would lead to discovery of the planted documents, in support of the allegations of that complaint; that he told the person that was to do it that there was to be perjury committed on depositions when asked about the meetings, any meetings that took place between Mr. Armstrong and this person; that he informed the person that if called upon to discuss the implication -- the participation of Michael Flynn, that he would lie about it and that the operation would lead to the downfall of the current management of the Church of Scientology, which would then allow the people with whom Mr. Armstrong was working to prevail and the net result to Mr. Armstrong and to the other clients represented by Mr. Flynn would be a settlement of all of their cases.

This, it seems to me, is admissible at a very minimum on the question of bias, under Rule 609. It is admissible as a prior inconsistent statement under Rule 613. And it is certainly admissible in the general superintendence of this Court over the affairs of this Court to prevent a fraud from being perpetrated on this very Court by this witness.

MR. WADE: To respond, in the first place, it sounds very similar to certain documents we have in evidence, others which we can produce, it's another Guardian's Office office operation or op.

In the second place, there are, I believe, two Oregon rules that are applicable. One, of course, is Rule 404, which we have discussed in the past, and Rule 608. With respect to rule 404, it states quite clearly that "other crimes, wrongs or acts may be admissible for proof of motive, opportunity and intent, preparation, plan knowledge identity or absence of mistake or accident."

A caveat to that however is contained in the comments, legislative commentary, which states: "The Court must determine where the danger of undue prejudice outweighs the probative valve of the evidence, taking into account the availability of other means of proof and other factors appropriate for making decisions of this kind."

With respect to this, Your Honor, it appears -- with respect to also with 608, which states that --

THE COURT: I have been referring on that rule and the use of that rule.

MR. WADE: You haven't 608, Your Honor.

THE COURT: I have been talking about that one on a rape case.

MR. WADE: "Specific instances of the conduct of a witness for the purpose of attacking or supporting the credidbility of the witness, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. Further, such specific incidents of conduct may not, even if probative of truthfulness or untruthfulness be inquired to on cross-examination of a witness."

MR. McMURRY: Read the comments.

MR. WADE: "Rule 608 (2) bars impeachment of witnesses by inquiring or extrinsic evidence regarding prior specific instances of conduct not resulting in conviction of a crime. The prohibition applies even where the prior specific instances of conduct are probative of a witness' truthfulness or untruthfulness. The rule prevents a freewheeling and possibly prejudicial inquiry into accusations against the witness that have never been proved and that may not even involve violations of law."

Now, with respect to the examination and the statements of the plaintiff, the direct examination in this case was very lean and quick compared to the cross-examination. The acts against Mr. Armstrong that he has testified about were elicited on cross-examination when he was asked, and I think the question was: "What have they done to you?" Something to that effect. Not during direct examination.

We did not get into, on direct examination, those areas. We found it unnecessary to do so. But on cross-examination, the defendant went into those areas. Now, we can see what the purpose of that was. The purpose of that was to have him talk about certain things, get collateral matters involved, and then try to bring in this operation or this concept of this huge conspiracy between his attorney, Mr. Armstrong and, I take it there must be some other people the defendants allege are involved.

Your Honor, under rule -- both Rule 405 and 608, that evidence should be excluded.

MR. COOLEY: Under Rule 609 (1), provides "that the credibility of a witness may be attacked by evidence that the witness engaged in conduct or made statements showing bias or interest. However, before this can be done, the statements must be related to the witness and the conduct described, with the circumstances of times, place and persons present, and the witness shall be asked whether the witness made the statements or engaged in such conduct. And if so, allowed to explain. If the statements are in writing, they shall be shown to the witness."

And under the legislative commentary it says, "Bias may also take the form of hostility to a party as shown by a history of conflict or lawsuit against the party."

MR. McMURRY: What section?

MR. COOLEY: Rule 609 (1).

MR. McMURRY: That has to do with crime.

MR. WADE: It's evidence the witness has been convicted of a crime.

MR. COOLEY: No. Credibility of a witness may be attacked by evidence that the witness engaged in conduct or made statements showing bias or interest. I'm looking at Oregon statute 40.360, impeachment for bias or interest out of the book you gave me.

THE COURT: 609 is impeachment.

MR. MANION: It's the bias rule.

MR. COOLEY: Here's the one I'm looking at, Your Honor.

MR. McMURRY: What page are you reading from?

MR. COOLEY: 258.

THE COURT: 609 (1), yeah.

MR. COOLEY: 609 (1).

THE COURT: That's impeachment for bias or interest.

MR. COOLEY: That's the rule I'm talking about, Judge.

MR. WADE: 609 (1)?

MR. COOLEY: Yes.

THE COURT: It appears on page 258 of Kirkpatrick.

MR. COOLEY: Rule 613 deals with impeachment for prior inconsistent statements. There you don't have to give him any advance --

MR. MANION: Can I interrupt? We have a bunch of papers. Without making any statement, Mr. Armstrong is alone out in the courtroom and I would just ask -- either that or we are going to bring our documents in here. I will just ask him to leave the courtroom.

THE COURT: Just tell him to wait out in the hall.

MR. MANION: Thank you.

MR. McMURRY: I resent that, Your Honor. The Court has been aware that the Scientologists have been running in and out of the phones throughout this entire trial, --

THE COURT: It's only a matter of precaution so somebody can't make an allegation against Mr. Armstrong that he did anything wrong. I'm not suggesting he would, but why put him in a position where he could be accused of it?

MR. WADE: Rule 613 is what he is talking about is the Queen Caroline variation.

THE COURT: He's talking about 609-1 one, impeachment, bias or interest. That's what he's talking about. I'm not sure about the inconsistent statements. I'm not sure he talked about it on direct or whether you got a statement out of him on cross and then we are going about getting a different statement out of him on cross. I'm not sure where it happened. .

MR. WADE: I can inform the Court with respect to what acts have been taken by the Church that came out on cross-examination because I was surprised by the question.

MR. COOLEY: On direct examination he testified that all the things the Church did against him, he would never have even thought of doing anything against the Church.

THE COURT: There's only one way to cure that problem.

MR. COOLEY: I have the transcript, Your Honor. And I can find it.

THE COURT: I need that transcript.

MR. COOLEY: With respect to the question of prior inconsistent statements, if a witness says something on cross-examination that is -- for example, suppose he says, "I never said thus and so," and you show him a testimony he gave in the prior case, that's impeaching with a prior and inconsistent statement. There's no rule it has to come out on direct examination.

MR. WADE: It appears to me the real question is just basically whether this attempt to show bias, motive or whatever on the part of the witness, is so collateral to the case in chief that we should have now a case. It appears to me what defense attorney is saying is that we are going to now have a case with witnesses, etc.; that there's some kind of a conspiracy between Mr. Flynn, Mr. Armstrong and others stated by defense counsel to plant documents in the Church at some time, and to attempt to have some criminal actions or something brought against the Church as a result of those planted documents.

Now, just to be very blunt with the corps, if they put on witnesses like that, then we are going to have to call however many witnesses it takes, whether they are attorneys, other people supposedly involved in this conspiracy and from reading the documents that have been produced for the Court's inspection concerning the conspiracy, alleged conspiracies of others against the Church, are we going to have thirty witnesses or forty? The alleged Christo conspiracy includes people all the way up to the Rockefellers, including the Condons in Portland, various other people in Portland who never met Ms. Christofferson. It appears to me that's what we are going to be faced with. And if we are, that kind of a trial within a trial about a collateral matter, is going to take so much time, particularly because it's on a collateral matter, that evidence should just not be admitted. If the defendants really believe that, I suggest they file a lawsuit, a separate lawsuit.

THE COURT: Am I not on narrower grounds than that, though, Ron? Am I not on the ground that Mr. Armstrong says, "I never did anything to the Church"? Am I not on this narrow ground of what Mr. Armstrong's statement -- "I have never bothered them, I have never done anything to them." I will play devil's advocate for you. "All I wanted ever to do was to be left alone and nothing would have come of this had they not sued me first."

MR. WADE: I think the ground may be narrower than that. In the question asked, it may go just directly to that question asked about whether or not you committed any proposed or committed any covert activity against the Church.

THE COURT: He said no to that.

MR. WADE: He said no.

MR. COOLEY: He said no to it.

THE COURT: He says no to that. Now, what if -- now just playing devil's advocate, what it that's a bald-faced lie, just saying that's a lie for a moment, you are the Judge, somebody is telling you that guys is lying, and I can prove to you that he is lying, and this jury, what as the Judge would you do?

MR. WADE: If the point was elicited by defense counsel and/or is a, not that -- a collateral matter is basically a matter that is raised that has some issue with the case because of credibility bias, etc., but not to the gravamen of the case. If it's --

THE COURT: We are so far past the gravamen of Julie Christofferson, you can't possibly believe it we are so far past that. You know, we are dealing with all sorts of issues now that, you know, they are very prejudicial to the Church. Am I to say that one side gets to stick in prejudicial matters but the other side doesn't? You can't really mean that I should do that.

MR. WADE: Your Honor, we would never suggest that the Court treat parties differently. I would, however, point out that most of the evidence which has come in, that has made this case perhaps larger than it was to begin with, has come in because of questions asked to certain witnesses on cross-examination.

THE COURT: I'm not casting stones anywhere. I made that statement yesterday to out-of-town counsel when he chastised this Court about losing control of the case, and I think I told him that he wasn't here to know how the matters all got in the posture they are in, so that's done with. As far as I'm concerned, it's there, we have got to deal with it.

MR. COOLEY: That's my view, Your Honor. We have fought --

THE COURT: Regardless of how it happened --

MR. COOLEY: Those are behind us now. We are now playing with the hand that's been dealt and what's history is history. Each side has made its positions known throughout and the Court has ruled as the Court must for better or for worse. The Court does that.

And Appellate Courts at some later time, they look back at what you do on the firing line and they decide whether it was right or wrong. And that's the way it goes.

Clients look back at lawyers who make decisions on the firing line and say whether it was right or wrong. That's the way our system operates. We are now dealing with the hand that was dealt to both sides, and I think we are dealing with a question of fairness.

THE COURT: This is the first time -- we have had Franks, we have had Walters, we have had Schomer, all of which got in their particular brand of -- if I may speak candidly, their particular brand of poison has come in and we've got nothing to -- they have tried to cross-examine those witnesses, but there is nothing they can really hang onto the way they seem to have something to hang onto Armstrong. At least I haven't heard it. It didn't come out in any of the cross-examinations, except inconsistencies and maybe there will be some other evidence later, I don't know. But here I am hearing somebody say to me, the Court, "This guy is lying. He's flat out lying under oath." That's what I'm hearing. Now, I haven't heard that in that language with any witness to date. Correct me if I'm wrong.

MR. COOLEY: I don't recollect making as strong a statement and I --

THE COURT: You might have said other things, but I'm talking about a flat out statement where you are saying to me this guy is lying.

MR. COOLEY: I have never felt as strongly about any evidence in my possession as I feel about the evidence I have with respect to Mr. Armstrong. And that, I assure the Court.

MR. McMURRY: Let's have it, then. Because if under the very worst scenario, Mr. Cooley has promised the Court that he will have clear and convincing evidence of perjury.

THE COURT: He says he's got it.

MR. McMURRY: If that is not the case, of course, he risks nothing because we are not going to move for a mistrial, but will certainly move for other sanctions.

THE COURT: Danger is -- you say you have got it.

You're an experienced lawyer.

MR. COOLEY: I've got it, Judge.

MR. McMURRY: If that is not the case --

THE COURT: -- then we've got -- excuse the expression -- a lot of crap on our hands.

MR. McMURRY: We will proceed then.

THE COURT: All right. Okay. Whatever that question was that I didn't understand, you may go ahead. I think the point is well taken about -- I don't know if it's because of whether Mr. Cooley has analyzed me and sized me up personally or had somebody do a rundown on me or whatever --

MR. COOLEY: The only thing I ever learned about you I got from Mr. Runstein that you're an old fighter. That's all I ever got.

THE COURT: They seem to know my strengths and weaknesses regarding privacy, regarding character assassination, regarding fairness. Mr. Cooley has a propensity to hit upon spots that this Court -- I think rightfully; I'm not making apologies for the way I feel about things.

MR. COOLEY: We have been together four weeks now. I couldn't have failed to observe your sensitivity in those areas.

THE COURT: The other one, my obligation, as

I see it, is to the fair administration of justice. I say fair administration of justice, but what you say is also right, Mr. McMurry. You don't say you're going to do something and then not do it.

MR. COOLEY: I'm not given to making those lavish provises without producing.

THE COURT: Okay.

MR. McMURRY: We will look, then, to --

THE COURT: We will now.

MR. McMURRY: -- get the documents.

MR. COOLEY: We are now going to Xerox documents.

THE COURT: When I was out there excusing them, the jurors asked -- they are heavily relying on Friday -- one of them asked me if they have to go to work. I said, "No. I'm sequestering you for the day."

MR. COOLEY: That's good.

THE COURT: So otherwise they don't get paid as a juror and they would have to go to work. I don't want them talking to people on the job and so forth. So I told them I didn't bother to ask you guys, but I told them I'm sequestering them; they should not go to work on Friday. Okay?

MR. COOLEY: Thank you, Your Honor.

(Court recessed at 4:07 p.m.)